

***United States Court of Appeals
for the Second Circuit***



APPENDIX

77-1399
77-1400

ORIGINAL

IN THE
United States Court of Appeals
For the Second Circuit

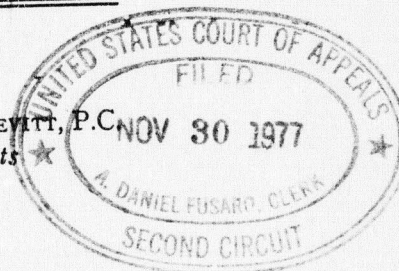
UNITED STATES OF AMERICA,
Appellee,
against

ANDREW DINKO, a/k/a Kelly,
PATRICIA DINKO, a/k/a Patricia Mushington,
Defendants-Appellants.

On Appeal from the United States District Court
for the Eastern District of New York

APPELLANTS' APPENDIX

KUH, SHAPIRO, GOLDMAN, COOPERMAN & LEVITT, P.C.
Attorneys for Defendants-Appellants
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New York, New York 10022
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PAGINATION AS IN ORIGINAL COPY

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A 1

DOCKET ENTRIES RE: ANDREW DINKO

- DINKO, ANDREW

21: 841(a)(1) & 846 Did conspire to
distribute and posses quantities
of heroin.

II. KEY DATES & INTERVALS

II. KEY DATES & INTERVALS										SENTENCE
ARREST or U.S. Custody Begins		INDICTMENT ☒ High Risk Case Information 6/7/76		ARRAIGNMENT 8/26/76		TRIAL 6/13/77 You Were 6/13/77		Disposition of Case 6/23/87		SENTENCE
Summons Served		Indict Waived		1st Plea II		Trial Begins II		☒ Convicted		Sentence
First Appearance		Superseeding Indict/Info		Final Plea		Trial Ended 6/23/77		☐ Acquitted		Work
In Charging District								☐ Dismissed		On Government's Motion

David De Petris

ATTORNEYS **X**
Salvatore Quagliata
118-18 Union Tpke
Kew Gardens NY 11415 261-3142

PROCEEDINGS

6/7/76 Before NEAHER, J. - Indictment filed ordered sealed by the Court. Bench warrant ordred/issued.

8/26/76 Before PRATT, J. - Case called. Defts present with counsel. Indictment ordered unsealed by the Court. Deft arraigned & after being advised of his right and on his own behalf enters a plea of not guilty. Bail set at 50,000 cash security \$5,000 cash. Adj'd without date before Costantino.

~~8/26/76 XXXXXXXXXXXXXXXXXXXXXXXX FILED XXXXXXXXXXXXXXXX~~

9/1/76 Warrant returned & filed executed on 8/27/76.

8-27-77 Notice of appearance filed.

9/17/76 Before COSTANTINO, J. - Case called. Defts not present. Bench warrant ordered and stayed until 9/22/76 at 10:00 a.m.

9/23/76 Notice of Readiness for trial filed.

11-4-76 Before Costantino J - case called - defts not present - case set down for status report 12-10-76 and trial date 1-24-77.

12-10-76 Before COSTANTINO, J. - Case called. Defts & attys present. Case adj'd to 3-21-77 for trial. All defts waive 6 monthz rule.

1D



3-1-77 Before Costantino J - case called & adjd to 3-21-77 for trial
 3-1-77 Before COSTANTINO J - trial rescheduled for 3-14-77
 3-14-77 Before COSTANTINO O - case called - trial set for 6-13-77
 25-77 Envelope ordered sealed by Ch. Judge Mishler (brought to Clerks office by Richard Appléby, AUSA)
 6/13/77 Before Costantino, J-case called-deft & atty present trial ordered-jurors selected-trial contd to 6/14/77.jlj
 6-14-77 Before Costantino J - case called - deft & atty present - trial resumed - trial contd to 6-15-77
 6.15.77 Before Costantino, J.- Case Called. Deft. & Counsel present. Trial resumed. Trial continued to 6.16.77. GP
 6.16.77 Before Costantino, J.- Case Called. Deft. & Counsel present. Trial resumed. Trial continued to 6.20.77. GP
 6-20-77 Before Costantino J - case led - deft & atty present - trial resumed - Govt rests - motion to dismiss - motion denied - trial contd to June 21, 1977.
 6-21-77 Before Costantino J - case called - deft & atty present - trial resumed - trial contd to 6-22-77.
 6-22-77 Motion for judgment of acquittal - decision reserved. Before Costantino J - case called - trial resumed - Trial contd to June 22, 1977
 6-22-77 By Costantino J - Order of sustenance filed.
 6-23-77 By Costantino J - Order of sustenance filed.
 XXXXXX Sten's transcript dtd 6/14/77; 6/15/77; 6/16/77 filed.jlj
 6/23/77 Before Costantino, J-case called-trial resumed-defts & atty present-order of sustenance signed(lunch) jurors return at 3:45PM & find defts guilty of each of counts 1 & 2 -jury polled & discharged decision on motion for judgment of acquittal-denied-bail contd on conditions that defts report to telephone probation dept or U.S.Att'y office twice a day at 10am & at 4pm & Mr Dinko to surrender his seamens papers/sentence adjd to 7/22/77.jlj'
 7/15/77 Sten's transcript dtd 6/23/77 filed.jlj
 7/22/77 Before Costantino, J-case called-sentence adjd to 8/12/77.
 7/22/77 Sten' stranscript dtd 6/22/77 filed.jlj
 7-27-77 Memo dated July 25, 1977 received from Chambers signed by Thomas Manning (re National Maritime Union Book of deft.)
 7.28.77 Stenographer's Transcript dated June 22nd, 1977 filed. GP
 7.28.77 Stenographer's Transcript dated June 20th, 1977 filed. GP
 7.28.77 Stenographer's Transcript dated June 21st, 1977 filed. GP
 8/12/77 Before Costantino, J-deft not present-sentence adjd to 9/13/77.jlj

Deputy Clerk

SEP 30 1977

UNITED STATES DISTRICT COURT
CRIMINAL DOCKET

DINKO, Andrew

A

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76

381

Vr

Docket No

V. EXCLUDABLE
(a) (b)

DATE	PROCEEDINGS (continued)
9.13.77	(Document No.) Before Costantino, J.- Case Called. Sentence adj. to 9.16.77.
9/16/77	Before Costantino, J-case called-deft & counsel pre- sent-sentenced for a period of 5 years on counts 1 & 2 concurrently & special parole term of 5 years sentence stayed pending appeal-bail contd.jj
9/16/77	Judgment & commitment filed. Certified copies to Mar- shall & Probationjj
9/16/77	Notice of appeal filed. Certified copies of docket entries mailed to C of A.jj
9.22.77	Order filed received from the Court of Appeals that the appeal be docketed and the record filed on or before October 3rd, 1977..

9/24 77
Clerk

AO 214A

By Clerk
Deputy Clerk

Interval
(per Section 11)
Start
End



A 5

DOCKET ENTRIES RE: PATRICIA DINKO

207 1

DINKO, PATRICIA

A 6

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38

21:841(a)(1) & 846 Did conspire to distribute
and possess quantities of heroin.

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II. KEY DATES & INTERVALS

ARREST or U.S. Custody Begins	INDICTMENT X Information 6-7-76	ARRAIGNMENT 8/26/76	TRIAL Trial Set For 1-24-77 6/13/77	SEN 6/23/77 9/
Summons Served	Indict Waived	1st Plea II	Day Date X Trial Began II	Disposition of Charges X Convicted Acquitted Dismissed On Government's Mot
First Appearance	In Charging District	Final Plea	Trial Ended 6/23/77	

MAGISTRATE

IN THE APPEARANCE OF	DATE	INITIALS
BY	DATE	
BY	DATE	
BY	DATE	

David De Petris

ATTORNEYS X
Erich Reisch
277 Bway

- 6-7-76 Before NEAHER, J - Indictment filed ordered sealed by the Court. Bench Warrant ordered/issued.
- 8/26/76 Bench warrant returned and filed, executed.
- 8/26/76 Before PRATT, J. - Case called. Deft & counsel present. Indictment ordered unsealed by the Court. Deft arraigned & after being advised of her rights and on her own behalf enters a plea of not guilty. Bail set at 50,000 cash security - \$5,000 cash. Adj'd without date before Costantino.
- 9/17/76 Before COSTANTINO, J. - Case called. Defts not present. Bench warrant ordered and stayed until 9/22/76 at 10:00 a.m.
- 9/23/76 Notice of Readiness for trial filed.
- 11-4-76 Before Costantino J - case called - defts not present - set down for status report 12-10-76 - trial date set for 1-24-77
- 12-10-76 Before COSTANTINO, J. - Case called. Defts & attys present. Case adj'd to 3-21-77 for trial. All defts waive 6 month rule.
- 1-24-77 Before Costantino J - case called & adj'd to 3-21-77 for trial

Deputy Clerk

1977

Before COSTANTINO J - trial rescheduled for 3-14-77
 Before Costantino, J - case called - deft & atty present
 trial ordered - jurors selected - trial contd to 6/14/77. jlj

6-14-77 Before Costantino J - case called - deft & atty present -
 trial resumed - trial contd to 6-15-77.

6-15-77 Before Costantino, J. - Case Called. Deft. & Counsel present.
 Trial resumed. Trial continued to 6.16.77.

6-16-77 Before Costantino, J. - Case Called. Deft. & Counsel present.
 Trial resumed. Trial continued to 6.20.77.

6-20-77 Before Costantino J - case called - deft & atty present -
 trial resumed - Govt rests - motion to dismiss - motion
 denied - trial contd to June 21, 1977.

6-21-77 Before Costantino J - case called - trial resumed -
 trial contd to 6-22-77. Motion for judgment of acquittal -
 decision reserved.

6-22-77 Before Costantino J - case called - trial resumed - trial
 contd to 6-23-77.

6-22-77 By Costantino J - Order of sustenance filed

6-23-77 By Costantino J - Order of sustenance filed.

6/23/77 Steh's transcript dtd 6/14/77; 6/15/77; 6/16/77 filed. jlj

6/23/77 Before Costantino, J - case called - trial resumed - defts
 & atty present - order of sustenance signed (lunch) - jurors
 return at 3:45pm & find defts guilty on each counts
 1 & 2 - jury polled - & discharged decision - on motion for
 judgment of acquittal - dehted - bail contd on conditions
 that defts report to telephone probation dept or U.S.
 Atty office twice a day at 10am & at 4am & Mr. Dinko
 to surrender his seamen's papers sentence adjd to 7/22/77
 .jlj

7/15/77 Sten's transcript dtd 6/23/77 filed. jlj

7/22/77 Before Costantino, J - case called - sentence adjd to 8/12/77.

7/22/77 Sten's transcript dtd 6/22/77 filed. jlj.

7.28.77 Stenographer's Transcript dated June 22nd, 1977 filed.

7.28.77 Stenographer's Transcript dated June 20th, 1977 filed.

7.28.77 Stenographer's Transcript dated June 21st, 1977 filed.

7/12/77 Before Costantino, J - case called - deft & atty present
 sentence adjd to 9/13/77. jlj

7-13-77 Before Costantino, J. - Case called - Sentence adjd to 9-16-77.

16/77 Before Costantino, J - case called - deft & counsel present
 deft sentenced for a period of 5 years - execution of
 sentence suspended - deft placed on probation for a 5
 period & a special parole term of 5 years & to pay a
 fine of \$3,000.00 - sentence to run concurrent on counts
 1 & 2. jj

16/77 Judgment & commitment filed. Certified copies to Mar-
 shall & Probation. jj

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PATRICIA DINKO

A 8

76 38
V. Excludar

DATE	PROCEEDINGS (continued)	V. EXCLUDAR
	(Document No.)	(a) (b)
9/16/77	Notice of appeal filed. Certified copies of docket entries mailed to C of A.jj	
9.22.77	Order filed received from the Court of Appeals that the appeal be docketed and the record filed on or before October 3rd, 1977.	

A TRUE COPY
ATTEST
DATED 9/29 19 77
LEWIS ORGEL
Car. Smith CLERK
DEPUTY CLERK

AO 206A

Interval
(per Section II)

Start Date
End Date



A 9

INDICTMENT

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

A 10

----- X
UNITED STATES OF AMERICA

- against -

ANDREW DINKO, also known as
"Kelly"
PATRICIA DINKO, also known as
"Patricia Mushington",
JOSEPH BOYD, and
RAYMOND FILES, also known as
"Leroy Files", also known as
"Coco",

Defendants.

I N D I C T M E N T

Cr. No. 76 CR 381
(T. 21 U.S.C., §§841(a)(1)
and 846)

----- X
THE GRAND JURY CHARGES:

COUNT ONE

On or about and between September 1971 and February 1974, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants ANDREW DINKO, also known as "Kelly", PATRICIA DINKO, also known as "Patricia Mushington", JOSEPH BOYD, and RAYMOND FILES, also known as "Leroy Files", also known as "Coco", together with others known and unknown to the grand jury, did knowingly and intentionally combine, conspire, confederate and agree to violation Section 841(a)(1) of Title 21, United States Code.

1. It was part of said conspiracy that the defendants and co-conspirators would knowingly and intentionally distribute and possess with intent to distribute quantities of heroin, a Schedule I narcotic drug controlled substance.

2. It was further a part of said conspiracy that the defendants and co-conspirators would conceal the existence of the conspiracy and would take steps designed to prevent disclosure of their activities. (Title 21, United States Code, Section 846).

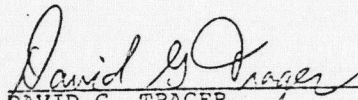
COUNT TWO

A 11

On or about the 21st day of September 1973, within the Eastern District of New York the defendants ANDREW DINKO, also known as "Kelly", and PATRICIA DINKO, also known as "Patricia Mushington" did knowingly and intentionally distribute approximately three (3) ounces of heroin hydrochloride, a Schedule I narcotic drug controlled substance. (Title 21, United States Code, Section 841(a)(1); Title 18, United States Code, Section 2).

A TRUE BILL

FOREMAN



DAVID G. TRAGER
UNITED STATES ATTORNEY
EASTERN DISTRICT OF NEW YORK

A 12

OPENING STATEMENT OF DEFENSE COUNSEL

Quagliata-opening

* * *

MR. QUAGLIATA: Judge Costantino, co-counsel.

Mr. Appleby, Mr. Foreman, ladies and gentlemen of the jury, the defense in this case, while it has no responsibility to do so, will come out of the normal role that a defense could have under the law and hide behind or make use of certain rights. We don't want to make use of those rights. We will come forward and we will tell you what happened from our point of view. We will tell you what our understanding of what happened was. We will tell you why we believe the other people are testifying as they are and we will tell you why we believe this prosecution was brought in behalf of the United States government against these two people here.

Now, you will hear from the defense in this case that there are two people that are on trial, they happen to be a husband and wife. Neither of them have -- has any prior confrontation with the law. Neither of them has been convicted of a crime. We will respond to whatever it is the Government could prove that we did and we will go even further, somethings that the Government can't prove we'll tell you exactly what happened from the mouth of the defendants. I'll tell you one thing that we're not going to be able to do. We're not going to be able to put ourselves in a position of knowing what

1
2 happened between other people, especially something
3 that allegedly happened in 1971 or possibly in 1973.
4 We could account for our own actions and we could
5 account for our own actions in a way that not only is
6 inconsistent with guilt, but certainly is consistent
7 and proof of innocence.

8 For instance, there will be witnesses that testify
9 in this case, some of them you possibly have heard
10 before if you listen to the radio. And they will tell
11 you that at a period of time when Patricia Dinko met with
12 an agent, all of that was reported to a radio station
13 and that the plan was, they thought that at that time
14 the person was probably an official from a union, that
15 Mr. Dinko was having a tremendous problem with. He ran
16 for president of the National Maritime Union and there
17 were many, many, many lawsuits in court and he fought
18 them. He was successful in some and unsuccessful in the
19 others. And so at the time prior to her meeting with
20 the person that they thought was a union instigated or
21 put-up thing, they reported this with the radio station
22 personnel, the news room of the radio station and they set
23 upon a plan.

24 I'll prove to you further that neither of these
25 defendants sold any heroin, any drugs of any kind.

1
2 Now, part of the defense will not be that they
3 sold it but you can't prove it or after all, heroin
4 isn't that bad or drugs aren't that bad. That will not
5 be part of the defense because that's not the part of the
6 thinking of these people. If they did sell it, I tell
7 you now, as a member of the defense team, convict them,
8 because they belong in jail. We don't ask for sympathy.
9 We don't ask for favor in this case. We're asking for
10 justice, from the first day to the last day.

11 Now, it's incredible -- this is 1977 -- we're
12 called upon to answer an indictment which allegedly goes
13 back to acts committed in 1971. Then other acts in 1973.
14 But we'll do the best we can and we'll do possibly even
15 better than anybody else could be expected to do and the
16 reason that we can do better is because of the circumstance,
17 the union problems that they had at the time, and the
18 steps that they took to safeguard their position regarding
19 the union confrontation we had. Lucky for them that they
20 were in a position to be cautious regarding the union
21 at that time or we'd never been able to answer this
22 indictment, not in '77.

23 Things that happened in '71 and '73. Why are
24 these people on trial in '77? There is a fellow by the
25 name of Johnson. As it turns out now and I'll tell you,

Quagliata-opening

we're going to listen to him together. Because we've never heard him testify. A fellow by the name of Johnson who comes in here, according to Mr. Appleby, not because he's looking to take off the streets or whatever, but because he's looking to save himself. Well, I'll prove to you that what Johnson says -- not only does he have a motive to lie but I will -- we'll find out together what the motive is because I know, I know, from the material that was provided to me, which is substantial -- this morning by the Government -- that Johnson is supposed to be under a 15 to life sentence by a State Court, under the Narcotics Laws of New York State which are very, very strict today. Johnson knew that then. He wanted to sell heroin. That's what the judge imposed upon him. I don't know what the Government could do for him because he's already been sentenced, sometime ago, to 15 to life. So we'll find out together, ladies and gentlemen, because we are not privy to whatever deal or arrangement that the Government made with Johnson. I will probe into it and I'm sure that being a very, very skillful advocate, Mr. Appleby will go into it as well and I'll show you not only is Johnson lying but Johnson has an extremely good reason to lie, because -- and I don't know what the deal is because

Quagliata-opening

1
2 I don't know what the Government can do with a person
10 3 that's already under a sentence of 15 to life. But
4 evidently, evidently Johnson made a deal for himself or
5 lawyers made a deal for Johnson. We'll find out exactly
6 what that -- that's all about. I just don't know what
7 it is. We'll have to listen to it together and evaluate
8 it together.

9 (Continued on next page)
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GRsf 1
2am/3

Quagliata-opening

A 18 29

2 MR. QUAGLIATA: (Cont'd.) Now, if other -- I'll
3 also prove to you why Johnson was around the Dinkos
4 in that period of time, why other people were around
5 the Dinkos in that period of time, why there are still
6 people that are helping the Dinkos, regarding the
7 union problems that they have.

8 Some of them will testify in this courtroom.
9 Their association with the union and people that are
10 willing to help them distribute circulars, and do
11 whatever else is necessary, to get a watchdog
12 committee -- there are many, many suits filed in the
13 Southern District.

14 We went up on appeal a couple of times -- has
15 nothing to do as far as the Dinkos are concerned
16 with drug business. It has to do with a union person,
17 a person that is in the union for a number of years,
18 trying to set up a watchdog committee and trying to run
19 for office in a union.

20 Now, if one of those people that they befriended
21 and there are hundreds, possibly, up until this date--
22 some of them will testify -- if one of those people
23 is a drug seller and then later as evidently Johnson
24 was -- by the way. I'll show you how the Dinkos met
25 Johnson.

2 1
2 It wasn't under any circumstances, aside from
3 what Johnson said having to do with drugs. It had
4 to do with where Johnson worked at the time when
5 Dinko's father happened to be in an institution.
6 That is how he meets Johnson and that is how Johnson
7 infiltrates him into his good graces and agrees to
8 help him with the union business, as many, many others
9 have.

10 All of the things I will prove to you will show
11 the Dinkos are innocent, not technically innocent, not
12 where you say, well, here is a guy that you know we
13 really couldn't prove. I'm talking about actually,
14 morally innocent, a person that had nothing to do
15 with any drug business, both of them. People that had
16 nothing to do with any illegal activities at the
17 time.

18 Now, this is the first I hear about Henry
19 Segar, the first that you have heard it certainly,
20 because you've -- only yesterday we were picked. He's
21 dismissed. I don't know what that means in relation
22 to this case but it is an incredible series of coin-
23 cidences, where in 1977, we're asked to answer a late
24 '76 indictment and then we find out that their chief
25 witness who is Johnson is a guy that is already under

3 1
2 a 15 to life sentence which means in state law that
3 you have to serve 15 years day for day until you're
4 eligible for parole.

5 So I don't know what the Government can do
6 for him. I said already, we'll find out.

7 The Government, I guess, has tremendous
8 power and they could exercise that power.

9 Let us find out what his motive to lie is.
10 That is No. 1.

11 Now we got another guy, this Segar, another
12 incredible coincidence, years after, years after
13 this -- these acts are concluded in '71 and '73,
14 he's dismissed from the DEA because according to Mr.
15 Appleby, he did something, I think he used the term
16 which his superiors considered -- I don't know.

17 Superiors considered to be imprudent or I don't
18 know. I don't know what he does for a living. We can
19 only answer what we did at the time, we can only
20 answer what our actions were and the motivation for
21 our actions.

22 If there were other people that did other
23 things, we'll do the best we can but we weren't there.
24 We don't know what those people said subsequently.
25 And we can only account for our own actions and

Quagliata-opening

1
2 luckily in this case, because usually it is very,
3 very difficult, to account for our own actions in
4 '76 or '77, something that happened in '71 and '73.

5 But, luckily in this case and I tell you
6 luckily in this case, we're going to make a very,
7 very good attempt to do it because certain of the
8 events because of the union problems were reported,
9 not now, then, and there are people that you may
10 have heard that will testify to that in this court-
11 room.

12 And that is the first that Mr. Appleby heard
13 about this, too, so we're learning together. We're
14 learning together. And you will be privy to
15 testimony which comes out in this courtroom and you
16 will have to use your God-given common sense to try
17 to be judges of the facts. And to try to determine
18 from the different evidence as it is developed in
19 this case what happened way back then.

20 I'll help you. These people will help you.
21 You'll hear from the defense. I don't know and it
22 will be my choice whether one, both of them will
23 testify, but you'll hear from the defense. Those
24 people, probably both, maybe one will be enough. I
25 don't know.

Quagliata-opening

5 1
2 To give you, to give you a full picture of what
3 happened and also to give the Government a full picture
4 because they should know, too. A full picture of
5 what happened.

6 The only thing I'm going to beg you at this
7 time is don't make your mind up about the guilt or
8 innocence of these people until the trial is over,
9 because the 16 witnesses will show that the first
10 witness lied or the 14 witnesses will show that the
11 second witness has lied.

12 And so that it is going to be extremely
13 important for you not to pass judgment upon a witness
14 immediately. I don't say forget about it. I don't
15 say accept it because a person said something is
16 true. No. What I say is, listen to all of the facts
17 in the case and then try to make a determination and
18 you will, as to what happened, because you are the
19 judges of the law.

20 Just like the Judge is the -- you're judges
21 of the facts, rather, and you have to imagine yourselves
22 in robes. You're the judges of the law, just as this
23 Judge is the -- the facts, rather, just as this Judge
24 is the judge of the law.

25 Okay. And so we will do the best we can. We

6 1
2 will contribute everything that we can contribute
3 in order to straighten out for you what our position
4 is and after all of the witnesses have testified in
5 this trial and I expect it to be a rather lengthy
6 trial, possibly three weeks. I don't know. I don't
7 know. We'll see how long it takes so that each one
8 of you as a judge of the facts can get all of the
9 facts that you need to make your determination.

10 But one thing will be certain to you. After
11 all of the witnesses have testified, I don't think any
12 of you, to the person, will have any problem
13 reconciling in your minds that the people that are
14 on trial here had nothing to do with heroin traffic,
15 that the reason and you'll also know the reason that
16 other people will say that they had to do with
17 heroin traffic, so you'll be in an extremely enviable
18 position -- most juries don't get it but you'll be
19 in a position to see behind the scenes from both
20 points of view.

21 I expect that after it is all over, you'll not
22 only know what happened but why things happened.

23 And so I ask you, don't make any determinations
24 until you see both sides because -- we're going to
25 present a case.

Thank you very much.

THE COURT: All right.

We must take a short recess and then I have naturalization proceedings I must go to at this point and then we will start as soon as we get back. About 15 minutes. All right.

A quarter to 12:00 we will start again.

(Recess taken)

(Continued on next page.)

* * *

FIRST HEARSAY EXPLANATION DURING TESTIMONY

Johnson-direct-Appleby

* * *

the people here and the other people.

THE COURT: It doesn't make a difference --

MR. APPLEBY: It shows his intention to get large quantities of heroin from the Dinkos'.

MR. QUAGLIATA: Would you explain to the jury that all of this hearsay is not admissible on the possession count --

THE COURT: Yes, on the recess. It is only as to that count.

MR. QUAGLIATA: So we have some ground rules.

THE COURT: Yes.

MR. APPLEBY: Would you explain it is subject to connection?

MR. QUAGLIATA: Now it is difficult for me to answer these other names.

(open court)

THE COURT: At this time I am not going to give you an explanation for the reason for permitting these questions, but after lunch, I will.

At this point it doesn't relate to Count 2, which I told you is a substantive count. The testimony given now is what we call hearsay evidence, or testimony which under certain conditions, in order to prove a conspiracy which has not been proven yet -- and that

Johnson-direct-Appleby A 27

1
2 is as far as a conspiracy -- it is your duty to find
3 one eventually, and then it is up to you whether to
4 accept this testimony.

5 Q At the time you paid the \$700 for the heroin,
6 who did you pay that money to?

7 A Andy Dinko.

8 Q When you went two or three times a week to the
9 Dinkos' house, who did you pay the money to?

10 A Andy.

11 Q Who generally weighed out the heroin for you?

12 A Pat.

13 Q Getting back to this introduction of George
14 Evans, were you present when Wiley introduced George Evans?

15 A Yes.

16 Q What conversation took place?

17 A Willie Wiley, Zeke, he told me that George was
18 interested in around a kilo, and could I do anything for him?
19 I told George that I would check and find out and let him
20 know later. I went to Andy's house and checked with him to
21 see if he wanted to sell George the kilo. That was after
22 I left the bar.

23 Q Did you have a conversation with Andy?

24 A Yes.

25 Q What was the conversation?

SECOND HEARSAY EXPLANATION DURING TESTIMONY

(so marked)

MR. APPLEBY: Yes.

I don't know -- I don't want the record to be confused.

MR. APPLEBY: 7 is the envelope.

MR. QUAGLIATA: Okay. Sorry.

Q And is this the packet that you received from the defendant Boyd?

A Yes, sir.

MR. APPLEBY: Your Honor, I offer Government's 8 for identification in evidence.

MR. QUAGLIATA: Your Honor, I have no objection but I'd ask that your Honor give the ruling to the jury at the earliest possible opportunity.

Segar-direct A 30

1 THE COURT: The same matter, hearsay?

2 MR. QUAGLIATA: Yes, sir.

3 THE COURT: Yes, I will. It need not
4 be done yet.

5 THE CLERK: Government's Exhibit --

6 THE COURT: As a matter of fact, you don't
7 have to tell them anything about hearsay until the
8 final charge, if I want to.

9 MR. QUAGLIATA: I know Judge, but I hope you
10 are just consistent with the way you did it in other
11 cases but I know that you don't have to do it.

12 THE COURT: All right.

13 THE CLERK: Government's Exhibit 8, previously
14 marked for identification so marked in evidence.

15 (so marked)

16 THE COURT: You are talking about hearsay as
17 opposed to the substantive count as with reference
18 to the conspiracy count.

19 MR. QUAGLIATA: And also whether it is admissible
20 if at all.

21 THE COURT: Generally the latitude of admissible
22 hearsay under Federal Rules is very, very great --
23 great latitude, unless the hearsay is such that it
24 could not be possibly connected or related to the
25

Segar-direct

A 31

1
2 situation that we are discussing or the issues in
3 the case and then of course hearsay is not admissible
4 and hearsay means what somebody else told somebody
5 else, not directly related to the witness on the stand.

6 In other words, if I tell him something, that's
7 not hearsay, something that we are both interested in
8 and talking about.

9 If John Jones tells him something, removed
10 maybe five times from four different people that told
11 him, then he says John Jones told me, that would be
12 hearsay because that's not a directly related
13 statement to the two people who were in the original
14 conversation.

15 All right.

16 MR. QUAGLIATA: Thank you.

17 Q Now, after you received the sample, did anybody
18 enter your vehicle?

19 A Yes, sir. When I received the sample Mr. Boyd
20 and Mr. Johnson were in the car at the time.

21 Q And after you received the sample, where did
22 you go?

23 A After I received the sample, Mr. Johnson told
24 me to take him to his residence because he was dirty and he
25 wanted to stop by his house.

TESTIMONY OF PATRICIA DINKO

each of those counts.

THE COURT: I will deny it at this time.

MR. QUAGLIATA: As to both counts?

THE COURT: Count 1 gives me more than a problem than with respect to Count 2. I will deny it at this time.

MR. APPLEBY: I ask if there are any witnesses for the Defense in the courtroom?

THE COURT: Any witnesses in the courtroom in the Matter of the United States versus Dinko? No witnesses.

Bring in the jury.

(Jury present.)

THE COURT: The Government has rested. We are ready to proceed with the Defendant's side of the case.

MR. APPLEBY: The Government rests.

THE COURT: The Court has made a determination as to motions outside the presence of the jury.

MR. QUAGLIATA: At this time call Patricia Dinko.

PATRICIA DINKO, having been first duly sworn by the Clerk of the Court, testified as follows:

THE CLERK: State your full name.

THE WITNESS: Patricia Dinko.

THE COURT: Excuse me for a moment.

(Pause.)

DIRECT EXAMINATION

BY MR. QUAGLIATA:

Q Will you give your name and address to the Court and jury?

A Patricia Dinko, 187-20 Brinkerhoff Avenue, Queens, New York .

Q You own a house right next to the Brinkerhoff Avenue address?

A 109-08 Firwood Place, Queens, New York.

Q How long are you married to Andy Dinko?

A About ten years.

Q Now, do you have any children of that marriage?

A Yes, two children, Andria, 9 years old and Patrick who will be 8.

Q In 1973, was Andy involved in a campaign regarding the union?

A Yes, he ran for president of the National Maritime Union. The election started in January of 1973 and the voting went on April 1st to May 31st, 1973.

Q Did you take part in that election?

A Yes, I was his campaign manager.

Q How many people in all took part in the election

1
2 to the National Maritime Union presidency?

3 A There were four candidates for the president
4 of the National Maritime Union.

5 Q What I am asking you:

6 How many people took part in your campaign?

7 A About a hundred -- maybe a hundred and
8 fifty. We have an amount of people helping us, because of
9 the type of industry it is. They are seamen. A ship will
10 come in, stay a few days, and then leave. Another ship will
11 come in, stay a few days --

12 I believe the question was, "how many people?"

13 THE COURT: Yes.

14 Q Are you saying some people would come in and
15 leave and all together about a hundred people?

16 A Yes, sir.

17 Q Do you know a person by the name of Charles
18 Johnson?

19 A Yes, I do know Charles Johnson.

20 Q You know a person by the name of Coco Files --
21 Leroy Coco Files?

22 A Yes, sir.

23 Q Could you tell us when you first met them?

24 A I met Charles Johnson in 1969 when I first
25 bought the house at 109-08 Firwood.

Q Up until that time, had you known Coco Files?

A No, sir.

Q Under what circumstances did you meet Johnson?

A I met Johnson when he was going with one of the girls that rent from me in that house. Her name is Fifi Mays.

Q Under what circumstances?

A He used to be in the apartment a lot. It was a furnished apartment and he was there a lot and I used to have to go in through the apartment to make repairs and check and do different things. This was necessitated by renting a furnished apartment.

Q Did you find out where he worked?

A He was introduced to me by Effie. Effie introduced him to my husband and myself and told us that this was her boyfriend and if we saw him in the apartment, there was no problem.

MR. APPLEBY: Objection.

THE COURT: I will allow it.

Q Did you or Andy have conversations with Johnson regarding his employment at Creedmore?

A At that time he told us that he worked at Creedmore State Hospital as a cook and Andy told him he was a chief steward on the ships and they talked about cooking

1
2 and Andy told him that his father was a patient at
3 Creedmore State Hospital and if he would do him a favor --

4 MR. APPLEBY: Is this in the presence of
5 Mrs. Dinko? She is relating a conversation.

6 THE COURT: Were you there?

7 THE WITNESS: Yes.

8 A (Continuing) -- if he would look in on his
9 father and check on his father and see if everything was
10 okay and if his father needed anything to let him know, he
11 will give it to him to take to his father.

12 Q Did he report back from time to time?

13 A Yes, he did. He did report back from time
14 to time and he gave him money and he gave him little things
15 to take to his father, whatever, toilets and things.

16 Q How long was Andy's father at Creedmore?

17 A He was in Creedmore State up until 1972 when
18 from there he was taken to Queens General Hospital where
19 he was operated on and he died.

20 Q In 1969 then -- you related when you met
21 Johnson -- did you meet Files at that time?

22 A No.

23 Q When did you next come in contact with
24 Johnson?

25 A I came in contact with Johnson, I believe, in

1971, 1972 when he had the restaurant and Andy was going up there to see his father.

Q Did you go with Andy to see his father?

A Yes, several times.

Q How often during that period of time did you see Andy's father?

A Sometimes once a week, sometimes once in two weeks. It's, you know, according to how our schedule ran.

Q Had you been in constant contact with Johnson up until this period of time or did you lose contact with him?

MR. APPLEBY: I will object to the leading.

THE COURT: Yes, rephrase it.

How frequently had you seen him?

Q How frequently had you seen him, for instance, in 1970?

A Effie moved out in 1970 and we did not have too much contact. Then we went up to see his father and he bounced into him at this restaurant and he said he was the owner and he introduced us to his partners at that time.

Q When you went into the restaurant, did you know you were going to meet Johnson?

A No.

1
2 Q What did you go into the restaurant for --

3 MR. APPLEBY: I will object to that.

4 THE COURT: Yes.

5 Q What happened when you went in there?

6 A We went in to have something to drink, because
7 we just wanted something to drink and we went in and we
8 saw him behind the counter.

9 Q Was there a conversation?

10 A Naturally we said, "How are you, what are you
11 doing here, I thought you were working at the hospital?"

12 He said, "Yes I am still working at the
13 hospital, but I have this little business and we are trying
14 to make do with it, and we got three partners and we take
15 shifts and different things and we're trying, you know."

16 Q did he indicate to you whether his partners
17 also worked at Creedmore?

18 A He introduced me to Coco and on one occasion
19 Leroy Files and said he was a therapist in Creedmore.

20 Q How about his other partner?

21 A He introduced me to his partner George Boyce,
22 I think he was. He said, "This is my other partner. He
23 introduced me to his girl, who is still working at Creedmore,
24 as a nurse's aid or something of the sort.

25 Q Then did you keep in contact -- when did you

meet him in the restaurant?

A I met him in the restaurant maybe early '72,
late '71.

Q Did you keep in contact with him until the
campaign?

MR. APPLEBY: I will object to the constant
leading. Let the testimony come from the witness.

THE COURT: It is preliminary.

(Continued on next page.

1
2 Q Tell me what happened? You said this was
3 1971, 1972?

4 A Right.

5 Q Did you see him frequently in the restaurant?

6 A We saw him a few times, and he came over to
7 my house one day in '72. It was the summertime. I'm not
8 sure when it was and he asked me if I had an apartment for
9 rent, because his girlfriend who lived on the grounds of
10 the hospital had to move and if I had an apartment
11 available to rent, and I told him at that time that I did
12 not have an apartment. If I heard of any apartment I would
13 let him know and if he could come back some time later,
14 maybe one of the tenants might move out.

15 Q What happened next with respect to your
16 relationship with Johnson?

17 A He came back and told me he had an apartment
18 on Farmer's Boulevard and he said they had no furniture
19 and he knew that I rented furnished rooms and had excess
20 furniture, and if we could help him. We gave him a box
21 spring and a mattress and I think a sofa. We had no legs
22 or frame for the bed. My neighbor across the street gave
23 him four legs for his bed, so they could sleep in the
24 apartment because they were sleeping on the ground.

25 Q What happened next?

1
2 A Natually we got a little closer. He was
3 living near to us and he would come and say hello and
4 then the election came on. Andy started saying that he would
5 run for president again, because he had run in '69 for
6 president of the union, and in November he said that he
7 will run for the president again.

8 Q When was this, November of what year?

9 A November of '72.

10 Q Did Johnson get involved in the campaign?

11 A Andy asked Johnson if he -- we started getting
12 threats when Andy would go down to the hall. Once he told
13 friends that he intended to run for the election coming up,
14 there were threats being made. I was getting threats on the
15 phone and they would meet us together and they would say,
16 "You have lovely kids" and, you know, these sort of things
17 and Andy felt he should have somebody with him to watch
18 the car if anything should happen, and have somebody to
19 let them feel at least that we were not along ^{if} if they would
20 try to do us anything.

21 Q When did he start working on the campaign?

22 A He started helping us around November of
23 1972.

24 Q When did he finish helping you?

25 A Johnson never stopped helping until around

1
2 December of 1973 when the relations broke of because --

3 Q We will get into that later.

4 In November of 1972 Johnson started helping
5 you?

6 A Right.

7 Q Was Coco Files helping you at that point?

8 A No, he was not helping me.

9 Q How did he get involved?

10 A Johnson was helping us for about three months
11 and then Andy decided to buy a motor home, because it was
12 winter and because they were not allowed to distribute
13 flyers in the union hall and standing there for hours
14 outside in the cold, he came up with the idea if we got
15 amobile home he can campaign out of the mobile home and
16 be warm. So he went about purchasing the unit in February
17 and we got the unit in March.

18 Q March of what?

19 A March of '73.

20 Q How does Files come into the picture?

21 A Then Coco -- excuse me, Pig could not --
22 Charlie Johnson could not drive the unit down to the hall.
23 He had a driver's license, but he could not handle the
24 unit and Andy used to have to drive it down and he would
25 drive the car. So Johnson told Andy that Coco was a very

1
2 good driver and that if he would allow Coco to come and
3 drive the unit. Then the two will be together.

4 Q When did Coco get involved?

5 A Coco got involved when we got back from
6 Puerto Rico around the end of March, around March 3rd --

7 Q Now --

8 A Of 1973.

9 Q -- they helped in the campaign all the way
10 up until December of 1973?

11 A Right.

12 Q During the campaign, were you in contact
13 with radio stations giving them information and stories
14 and releases and the like?

15 A Yes. We had contact with several radio
16 stations.

17 Q Name them.

18 A CBS, NBC, WWRL, WPIX, Channel 11, Gabe
19 Pressman, Channel 5. We had direct contact and spoke with
20 reporters on those stations.

21 Q For instance, on May 1st did something happen
22 to Andy that you communicated to the radio stations?

23 A I did communicate when Andy got shot on
24 May 1st. We went to visit our doctor after campaigning that
25 day. We went to the doctor's office and Andy went back to

1
2 the car to get some flyers and he was shot in the car
3 and he came into the office and from there he was sent
4 to Queens General where they kept him until the next
5 morning. The reports^{go} somehow found out that he was shot
6 and they were calling the house and interviewing and calling
7 him at the hospital or what not.

8 Q did you have contact at that time with WWRL?

9 A Yes.

10 Q And WPIX?

11 A Yes.

12 Q And you were filling them as to what happened?

13 A WWRL, the Long Island Press, the New York Post,
14 the Times, all the newspapers -- New York City papers,
15 the Baltimore Sun and several other papers.

16 Q When did you first deal with WWRL?

17 A We first dealt with WWRL back in March when
18 Andy came out with the campaign the first day and we had
19 a press conference that day when we were attacked in the
20 camper and we had two small children with us, and
21 was beaten in the camper in front of the reporter
22 United Press, I think it was, and the reporter from the
23 Press and Times --

24 Q Around May 1st, May 2nd, May 3rd -- around
25 that period of time in 1973, did you have -- this would be

around the time when Andy was shot.

Q Did you have a suit pending in the Federal Court?

A Yes.

Q What was that about?

A We filed a suit in the Federal Court due to the numerous irregularities in the election and the fact that we felt it wasn't a fair election. We got a show cause order to stop -- to try and stop the election, you know, while the voting was already on but we weren't successful.

Q Did you go to the Southern District on May 2nd?

A We were at the Southern District on May 2nd, because Andy was scheduled that morning with his attorney to -- with the union -- to answer that show cause order.

Q Did he?

A He did appear there, but the judge had found out about the shooting and adjourned it for May the 4th.

Q What happened on May 4th?

A On May 4th at 10 o'clock we went up to Judge ^{Carter} Connor's courtroom and Judge ^{LaRue} Connors felt that there were no grounds for -- he said he would dismiss it. He said at that time he felt the election should not be --

1
2 MR. APPLEBY: I object to what Judge Connors
3 stated.

4 THE COURT: Yes.

5 Q What happened the rest of the day?

6 A Well, when we went into the court to begin
7 there were a lot of reporters --

8 Q Is that at 10 o'clock?

9 A Yes. When we left the courtroom, we left with
10 Don Ross of WWRL, with the attorneys to their office, and
11 the camper was parked in front of Foley Square -- the
12 Federal Courthouse. We walked over to Broadway with the
13 attorneys, with the radio reporters, and we stayed there
14 several hours because we were trying to plan a different
15 strategy on that same case.

16 Q What happened next?

17 A We came back to the camper at about
18 approximately 2 o'clock, something like that, and when we
19 got back there was a note -- a card from Frank Casey of
20 Channel 11. We then drove up to Channel 11 -- WPIX
21 Plaza, and we went up to the reporters and asked for
22 Frank Casey and Charles Ross took care of us, because Casey
23 wasn't in. Charles Ross came down with the cameraman
24 to interview Andy in front of the camper. When we got there
25 the New York City police were there. They were searching

1 the camper and they said they were looking for the
2 registration and what not. They had Coco give identification
3 and said they were looking for the registration and the
4 insurance.
5

6 Q When you say they were searching the camper,
7 what were they searching?

8 A They were opening the drawers and closets --
9 over the beds there are drawers -- there is a sink and a
10 stove and drawers like a regular kitchen.

11 Q Now, did you receive a ticket that day from
12 the police?

13 A Yes, they gave us a ticket that day.

14 Q As a matter of fact, had you received tickets
15 many, many times from the New York City police?

16 A Yes.

17 MR. APPLEBY: I will object to this. This
18 is totally irrelevant to this matter.

19 MR. QUAGLIATA: It is not irrelevant. I will
20 connect it.

21 THE COURT: I know what you are doing. It is
22 a question of harassment. It has nothing to do with
23 the charges in this indictment.

24 MR. QUAGLIATA: It will make sense when you
25 hear the rest of the defense. We are just in the

beginning.

MR. APPLEBY: At this point a lot of this testimony does not make sense.

THE COURT: It deals with matters not related to the charges here.

Q Do you know where you were on April 13th, that date was mentioned in this trial?

A yes, sir.

I was at the National Maritime Union Hall on May 13th.

Q What happened --

MR. APPLEBY: Is that May 13th?

MR. QUAGLIATA: April 13th.

THE WITNESS: I am sorry, April 13th.

On April the 11th when we went down to the hall in the mobile unit we were given a ticket and told if we remained by the meters, which were half hour meters, at the union hall that we would be arrested so we left and came home. This was one of several tickets we had received during the campaign, because we were getting tickets three and four at a time.

MR. APPLEBY: I do not see what that has to do with this case?

1
2 THE COURT: If you are in violation, you
3 receive a ticket. It is not harassment. I may get
4 a ticket, you may get a ticket.

5 MR. APPLEBY: I move to strike.

6 THE COURT: We all get tickets. I will not
7 accept it as being related to anything having to do
8 with this case. The charges are specific and that is
9 the possession and distribution of heroin. Nothing
10 else. No one would recognize that we are trying that
11 here.

12 MR. QUAGLIATA: Those dates were mentioned.

13 THE WITNESS: On April 13th we went down -- we
14 went down with the camper and given a twenty five
15 dollar ticket for meter feeding. We had several
16 campaigners there that day and after the union closed
17 --

18 MR. APPLEBY: Your Honor just sustained the
19 objection.

20 THE COURT: I just ruled it has nothing to do
21 with this. It may be tremendous background material,
22 but not for this case.

23 Q Just where you were on April 13th.

24 A After leaving --

25 Q Did you hear --

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THE COURT: I am not trying a union case. Let
us get down to the issues here.

Q Did you hear somebody testify that you were
in front of your house at a certain time on that day?

Were you?

A No.

Q Tell us where you were at all times on
April 13?

A On April 13th I was at the union hall and then
I went up to Harlem to drop the rest of the campaigners
off up there in Harlem and we stayed up in Harlem until
midnight that night.

Q What time did you finally get home?

A I got home about midnight, at 12:30, 1 o'clock
-- something like that.

Q Now, do you remember an incident around
November 13th of 1974?

A Yes.

Q Did you have a conversation with somebody --
withdrawn.

Let me ask you --

THE COURT: Ask her the conversation and with
whom.

Q Did you have a conversation at some time

regarding drugs or a rip off with Nick Burgess?

MR. APPLEBY: I think we are not getting into the substance of the case. I move to strike the entire preliminary part of the testimony as totally irrelevant.

THE COURT: It is a foundation. I have already indicated that it has nothing to do with the issues directly involved in this case.

Q Did you have a conversation with a Nick Burgess?

A On April 15th I had a conversation.

Q Was he also working on the campaign?

A Yes, he was also one of the campaigners.

Q Is he somehow related or connected with Mr. Johnson?

A Yes, we considered him as Johnson's brother-in-law, because Johnson was living with his sister Frances.

Q Now, you had a conversation with Nick Burgess on the 15th?

A Yes.

Q What did Burgess tell you?

MR. APPLEBY: Is this on April 15th?

MR. QUAGLIATA: November 15th, 1973.

Q Is that correct?

A Yes.

Q What did he tell you?

A On November 15th, 1973 Nick Burgess came to me and told me that Coco had told him that he intended to rip this guy off --

MR. APPELEY: I will object to this, your Honor.

I withdraw it.

THE COURT: All right, go ahead. You may continue.

Q Tell us the rest of the conversation?

A That they intended to rip some fellow that came with 40 thousand dollars in a briefcase to Pig's house asking to buy dope from Andy and I.

MR. APPELEY: May I ask who made the statement?

MR. QUAGLIATA: I will tell you in a moment.

MR. APPELEY: I want the witness to.

Q Did Burgess say how he got this information?

A He said Coco told him and that they knew they couldn't get any dope from us, so the only thing they can do is take the money. He told me this because he knew that Pig was living at my house and --

MR. APPELEY: I will object to, "because Pig

was living at my house."

THE COURT: Some time you must accept testimony from lay witnesses as they would speak.

A -- if there were any repercussions on a rip off or anything, we would hear about it -- people will be coming and looking for us, and he didn't want this happening because he knew we we innocent parties to the whole affair.

(Continued on next page.)

1
2 Q What did you do pursuant to the conversation
3 on the 15th with Burgess?

4 A We went over to WWRL on November the 16th --

5 Q How do you remember the date?

6 A We remember the date because we we went in
7 there with a summons showing that we were suing Honest
8 Ballot Association and the National Maritime Union for
9 defamation of character for seven and a half million
10 dollars.

11 Q What happened next, regarding what Burgess
12 told you?

13 A We told the reporters about it and I told them
14 I didn't know what to do, that Nick had told us what had
15 happened and we didn't know what to do. We did not know
16 if we could trust these campaigners if they were planning
17 to hurt us and we didn't know what to do, to tell us what
18 to do.

19 Q At the time you went up on the 16th and had
20 the conversation with the reporters, where was Nick
21 Burgess?

22 A At the station waiting for us also.

23 Q You are talking about the radio station?

24 A Yes.

25 Q As a matter of fact, did he later have a

1 conversation with some of the reporters?

2
3 A Yes.

4 Q Tell me what you told the reporters, what they
5 told you and what you decided upon on November 16, 1973?

6 A I told the reporters that one of the campaigners
7 had come to me and told me two people had approached them,
8 a man and a woman that claimed to be man and wife, and
9 asked them -- showed them 40 thousand dollars and asked
10 them --

11 MR. APPLEBY: This is double hearsay. She is
12 telling the reporter what two other campaigners had
13 told --

14 MR. QUAGLIATA: She is saying what she said.

15 THE COURT: To whome?

16 MR. QUAGLIATA: What she said to the reporters.

17 THE COURT: She is relating what?

18 MR. QUAGLIATA: She is saying what she said.

19 MR. APPLEBY: How am I suppose to cross examine?

20 THE COURT: She is relating statements made to
21 someone and then related to her by the person not
22 part of the conversation. That is the rankest type
23 of hearsay. We have great latitude here in the
24 Federal Court, but not that great.

25 MR. QUAGLIATA: What she said is not hearsay.

It shows her state of mind.

MR. APPLEBY: She is relating what somebody else said.

Q What did you tell the reporters?

A I told the reporters --

MR. APPLEBY: May we have a side bar?

THE COURT: We will have the jury step out. This is a very difficult principle of law, as to what is hearsay and what is not. I would rather that you not hear it.

(Jury leaves courtroom.)

THE COURT: You may step down.

(Witness leaves witness stand.)

MR. APPLEBY: As I understand Mrs. Dinko's testimony, two campaigners came up to her -- unidentified -- and told her of a rip off --

THE COURT: What somebody else told them.

MR. APPLEBY: What somebody else told them --

THE COURT: About her.

MR. APPLEBY: About her. Then she goes to the reporters and relates that double hearsay conversation and that is admissible testimony? How am I suppose to cross examine?

MR. QUAGLIATA: Because the reporters will

1
2 testify, that is why.

3 THE COURT: If it is subject to connection --

4 MR. APPLEBY: Even if the reporters testified --

5 MR. QUAGLIATA: It shows her innocence regarding
6 November 27th conversation with the agent. That is
7 why it is important. If you'll give me a little
8 latitude, I will connect the whole thing up. I opened
9 to the jury telling the jury that her actions were
10 consistent with innocence. Her state of mind is
11 an issue and that is what we are trying to prove.

12 MR. APPLEBY: Everything can come in under
13 state of mind. I have to have an opportunity, in
14 fairness, to cross examine the proponents. How am
15 I suppose to cross examine as to that? It is
16 impossible.

17 THE COURT: It is not a question of whether or
18 not she told the reporters. Let us concede she did
19 tell the reporters. The reporters will come in and
20 say, "Yes she made that statement." You must have
21 a foundation for the statement being made and that
22 foundation must come from a person directly to the
23 person or persons who made the statement as -- to the
24 first hearsay party who made the statement to her.
25 That would be the campaigners who said they spoke

1
2 to Johnson. How can you skip the first and go to
3 the last two?

4 MR. QUAGLIATA: What she told the reporters
5 is not hearsay.

6 THE COURT: Of course it is. Her foundation
7 is hearsay. It is based upon hearsay three times
8 removed. How far can you go?

9 MR. QUAGLIATA: It doesn't matter how she
10 got the information. The fact is that she related
11 it and that is a crucial point in this trial. That
12 is the important thing.

13 THE COURT: It is no different than if Johnson
14 said, "I flew to the moon because Harry Smith spoke
15 to John Smith and Harry Smith told them that I flew
16 to the moon, so I flew to the moon." There is
17 something wrong with it. It has no foundation.

18 MR. QUAGLIATA: I am not talking about the
19 first conversation. I am talking about the conver-
20 sation --

21 THE COURT: It must be a related situation to
22 the hearsay evidence as proposed on the witness stand
23 by the person making the statement. Where is it
24 related?

25 (Continued on next page.)

2AM-R1
IG/flp

1 MR. QUAGLIATA: But Judge, we are talking about
2 two separate conversations --

3 THE COURT: I will look at the rule.

4 MR. QUAGLIATA: The conversation between her
5 and the agent reflects on her and her state of mind.

6 THE COURT: All right. As I say, I will look at
7 the rule.

8 We will have to recess now. I am going to take
9 two pleas.

10 (Recess taken.)

11 (After recess.)

12 (The following occurred in the absence of the
13 jury.)

14 THE COURT: I have come to this conclusion: I
15 reviewed the 608 hearsay rule. I will let her make the
16 statement and I will advise the jury at this point that
17 they are not to accept these statements -- that it does
18 not go to the truth of what she is saying, but goes to
19 her state of mind.

20 MR. APPLEBY: Your Honor, it is not admissible.

21 THE COURT: It is admissible.

22 MR. APPLEBY: It is a question of discretion on
23 your Honor's part.

24 If the testimony is prejudicial to the Government's
25 case and has no probative value and tends to confuse

2 1 the jury --

2 THE COURT: I will ask them if they are going to
3 be confused.

4 MR. APPLEBY: There is no obligation on your part
5 to accept a triple hearsay statement. I cannot cross-
6 examine that statement.

7 THE COURT: Yes you can on the state of mind and
8 the effect it had on her.

9 MR. APPLEBY: May we do this as a matter of
10 precaution: I understand the court reporter who took
11 the last bit of testimony isn't here.

12 Could Mrs. Dinko relate again the conversation
13 with Nick Burgess and then I could voice my objection.

14 THE COURT: Yes.

15 MR. QUAGLIATA: Let's do it in front of the jury.

16 THE COURT: We don't need the jury.

17 P A T R I C I A D I N K O, having been previously duly sworn
18 by the Clerk of the Court, resumed the witness stand
19 and further testified as follows outside the presence
20 of the jury.

21 EXAMINATION BY MR. QUAGLIATA:

22 Q Relate the conversation you had with Nick on
23 the 15th of November, 1973 --

24 MR. QUAGLIATA: You see your Honor, this is my
25 problem -- before she proceeds.

Dinko-direct

1
2 If Mr. Appleby is in doubt as to what was said
3 then the jury may be and I will ask her again anyway.

4 Mr. Appleby would have an opportunity to hear it
5 the same time as the jury does.

6 MR. APPLEBY: I am trying to voice my objection
7 and I want to hear the testimony so I can voice the
8 object appropriately.

9 MR. QUAGLIATA: Then let's have the court reporter
10 read it back.

11 MR. APPLEBY: We can do that.

12 MR. QUAGLIATA: If there is confusion I intend to
13 clear it up.

14 After her direct testimony, if there is a problem
15 of confusion you can take it out of the presence of the
16 jury.

17 I would like to continue with her testimony. We
18 had a break of some 45 minutes in between the testimony --

19 MR. APPLEBY: I think your Honor ruled and I
20 would like to hear that testimony.

21 THE COURT: From the record or from her?

22 MR. APPLEBY: From her.

23 MR. QUAGLIATA: I am going to ask it in front of
24 the jury and if there is still a problem with Mr.
25 Appleby then I have no objection with her repeating it.

4 1 Dinko-direct

2 MR. APPLEBY: On what basis is Mr. Quagliata
3 going to have the witness repeat the testimony twice?

4 MR. QUAGLIATA: If there is confusion on your
5 part there is probably confusion on the part of the jury.

6 MR. APPLEBY: That's your problem.

7 On what basis are you going to have the witness
8 repeat the testimony twice?

9 MR. QUAGLIATA: I take my orders from that
10 Judge. When you wear robes I will take my orders from
11 you.

12 EXAMINATION BY

13 MR. QUAGLIATA: (CONTINUING)

14 Q Ma'am, would you please tell us the conversation
15 you had with Nick on the 15th of November, 1973?

16 A On November 15th Nick Burgess came to me and
17 told me that Coco had told me that a man and woman had
18 approached Coco and Pig with \$4,000.00 --

19 THE COURT: Pig is Charles Johnson?

20 THE WITNESS: Yes, sir.

21 A (Continuing) -- approached them with \$4,000
22 and asked them to buy dope from Andy and myself and since
23 Pig and Coco knew that we had no dope and couldn't give them
24 any dope --

25 MR. APPLEBY: Your Honor, how can she state that?

Dinko-direct

That's why I wanted to listen to it. How can she state that?

THE COURT: I don't know. Everybody knows she can't make that statement. I can't take issue with that, Mr. Appleby.

MR. APPLEBY: May I have her continue?

THE COURT: All right.

A (Continuing) -- they decided to rip the guy off and his wife for the \$4,000 instead --

MR. APPLEBY: Who decided that?

THE WITNESS: Coco and Pig.

THE COURT: Charlie Johnson?

THE WITNESS: Yes.

Q I tell you now, that you have to leave out the part where you said that they knew that you didn't have anything to do with drugs. You can tell the rest of the story.

THE COURT: Yes.

You may ask the question before the jury and I will strike out what is necessary.

MR. APPLEBY: There was a further conversation.

THE COURT: You went to the reporters, you said, at WWRL?

THE WITNESS: Yes.

Where do you want me to start?

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THE COURT: Start with your going to WWRL.

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THE WITNESS: The next day I went to WWRL with a summons about a case that Andy is suing the --

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THE COURT: You know, this part bothers me completely.

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MR. QUAGLIATA: It's important to fix the time.

Your Honor, I have got to tell Mr. Appleby in front of the Court that 95 percent of his case is hearsay.

I just want hearsay to prove her state of mind to this --

MR. APPLEBY: What about Segar's meeting with Patricia Dinko?

MR. QUAGLIATA: We will get to that, hopefully today, if you will give us an opportunity.

MR. APPLEBY: May I hear the conversation, your Honor --

THE COURT: Yes --

MR. APPLEBY: (Continuing) -- about the radio station.

THE WITNESS: Continued from --

MR. APPLEBY: From the time you first went to the radio station.

THE WITNESS: November 16th, 1973 I went to the

1
2 WWRL station with my husband Andy Dinko and we, at
3 that time, gave the reporters a summon where we were--
4 where Andy was suing the Honest Ballot Association and
5 the National Maritime Union for 7 and a half million
6 dollars for defamation of character. Ok? Shall I go
7 ahead?

8 THE COURT: What has that got to do --

9 MR. QUAGLIATA: That's how she gets the date.

10 THE COURT: That's the only reason -- to get
11 the date?

12 MR. QUAGLIATA: It's important.

13 MR. APPLEBY: If she gives the date I will
14 accept it.

15 MR. QUAGLIATA: I will get right into the
16 conversation.

17 THE COURT: Sure.

18 I knew something was bothering me.

19 What did you tell these reporters?

20 Q Regarding the dope transaction --

21 MR. APPLEBY: Right.

22 A I told the reporters that a man and woman had
23 approached two of the campaigners and I was told by one of
24 the campaigners that this man and woman was going to be
25 ripped off by Pig and Coco because the man and woman had

2 come with \$4,000 and asked to buy dope from us.

3 MR. APPLEBY: From you?

4 THE WITNESS: He had asked Pig and Coco, --

5 THE COURT: I will allow it.

6 MR. APPLEBY: I want to state for the record
7 that I object to that.

8 THE COURT: All right, I will allow it.

9 MR. APPLEBY: May I have a moment, your Honor,
10 please?

11 THE COURT: Surely.

12 (Pause.)

13 THE COURT: However, you are not to tell the
14 jury the business about the Honest Ballot.

15 MR. QUAGLIATA: Leave that out.

16 THE COURT: This is for state of mind, but not
17 for the truth of it.

18 MR. QUAGLIATA: You say you went there for
19 another reason and then you told them about this.

20 THE WITNESS: Ok.

21 MR. APPLEBY: Could you also tell the jury that
22 the Government has no way of cross-examining those
23 people --

24 MR. QUAGLIATA: I am bringing them in here,
25 Mr. Appleby. They are outside.

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Dinko-direct

A 68

463

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THE COURT: You mean the reporters?

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MR. QUAGLIATA: Yes.

4

He can cross-examine.

5

I can tell you the names. They are outside

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right now.

7

THE COURT: Let's get going.

8

Bring in the jury.

9

(Jury entered jury box.)

10

MR. APPLEBY: May I have a side bar one moment?

11

(Side bar discussion between Court and counsel

12

as follows:)

13

MR. APPLEBY: I think Mr. Quagliata is going

14

to try to go over the same exact testimony as before.

15

THE COURT: No, no.

16

Just start from there.

17

MR. QUAGLIATA: With the reporters.

18

THE COURT: Right.

19

(Conclusion of side bar discussion.)

20

(continued next page)

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T2/R2
EG/JW

(The following occurred in open court)

THE COURT: The Court has made a ruling on an extremely technical area which is really within the discretion of the Court with regard to whether or not that type of testimony, really hearsay, should come before you as jurors.

I made the ruling that I will permit it but not as to the truth of the statements she made but rather, the state of mind she had at the time she made the statements.

It has to do with state of mind, not the truth of the statements.

The Government will have a right to examine on that basis.

DIRECT EXAMINATION

BY MR. QUAGLIATA: (Continuing)

Q You said on the 15th you had a conversation with Burgess?

A Yes.

Q And the first name?

A Nick.

Q And you learned something from that conversation?

A Yes.

Q On the 16th did you do something about what you had learned -- did you have a conversation or go somewhere?

1
2 A I went to WWRL radio station about another matter
3 and while there I told the reporters that a man and woman
4 had approached two of my campaigners with 40 thousand dollars
5 asking to buy heroin from Andy and I and that the two
6 campaigners had planned to rip the man and woman off.

7 Q Now, at the time you went to WWRL where was
8 Burgess?

9 MR. APPLEBY: Does your Honor's ruling apply to
10 those rulings as well?

11 THE COURT: Surely.

12 Q At the time you went to WWRL where was Burgess?

13 A He was in the WWRL station with us.

14 Q And WWRL, tell me who was involved in the
15 conversation between you and what you said was the reporters?

16 A The reporters involved was Dick London, Les
17 Campbell and George Flowers.

18 Q Where is Dick London now?

19 A He is outside.

20 Q And where is Les Campbell?

21 A He is outside, waiting.

22 Q And where is George Campbell --

23 A George Flowers is out there too.

24 Q What was decided to do at this point and who
25 decided it?

1
2 A The five of us, the three reporters, myself and
3 Andy, we sit down and we discussed this thing over and we
4 don't know what to do about it, Andy and I.

5 Finally, after tossing things around, the
6 reporters, Dick London and the two reporters, decided that
7 maybe that we should try to set up a meeting and see what
8 this is about because we thought it was union inspired --

9 MR. APPLEBY: Objection.

10 THE COURT: Don't tell us what you thought.

11 Q Did you tell them that?

12 A Yes. We thought it was union inspired.

13 Q Did you tell the reporters that?

14 A Yes. I told them it could be union inspired.

15 Q What happened next?

16 A It was decided that I will try to set up a
17 definite meeting with the parties, the two people with this
18 money, that was coming looking for us and once I set up a
19 definite meeting I would then call up the reporters and give
20 them at least two hours notice --

21 Q Stop right there.

22 Who told you they would need two hours notice?

23 A Dick London and the engineer and the two
24 reporters needed two hours notice to wire for sound and
25 what not.

4 1
2 Q So, the plan was to have you or the reporters to
3 wired?

4 A The plan was to have the reporters wired.
5 In other words, once a definite meeting was set up the
6 reporter would go with me to meet this party again and he
7 will be wired for sound when this money was supposed to be
8 passed.

9 Q Why was it decided in the conversation between
10 the five of you --

11 MR. APPLEBY: Objection to "why."

12 MR. QUAGLIATA: I will withdraw it.

13 Q Who suggested that you go?

14 A Dick London and the reporters suggested that
15 I go since Andy was the candidate and if there was any
16 conspiracy to kill him or to hurt him it -- they wouldn't
17 do it to me because I wasn't a candidate and couldn't run
18 for office.

19 So, I wasn't the target of anything that should
20 happen.

21 Q Now, when you left WWRL on November 16, 1973,
22 what had you decided to do and what were they supposed to
23 do?

24 MR. APPLEBY: Objection to what she decided to do.

25 She can testify to what she saw and heard.

Dinko-direct

A 73

Q Did you make a plan --

MR. APPLEBY: O bjection.

THE COURT: I will allow it as a preliminary statement.

Q Did you make up a plan?

A The plan was that I would set up this appointment with this man and woman, whoever they were, and then inform the reporters two hours after the definite appointment was set up and they would meet with the parties.

Q What day of the week was November 16th, when you had this conversation with the reporters, if you recall?

A It was a Friday.

Q Did there come a time when you confront Piggy and Coco with the information you had?

A Yes.

THE COURT: Who is Coco?

MR. QUAGLIATA: Leroy Files.

THE COURT: And Pgggy is --

MR. QUAGLIATA: Piggy is Charles Johnson.

Q Tell me what happened next in confronting these people?

A First, I got in contact with Coco immediately. That was over the weekend.

I asked Coco what was going on. He tole me that

1
2 this man and woman had come to the place and the woman was
3 sent --

4 MR. APPLEBY: Objection to what Coco said.

5 These are not statements in furtherance of the
6 conspiracy and are not admissible on any basis.

7 MR. QUAGLIATA: They are admissible as to intent.

8 THE COURT: That's correct.

9 MR. APPLEBY: They do not go to the truth of the
10 matter.

11 THE COURT: They do not, that is correct.

12 Q What did you do next?

13 A Coco told me that this guy and his wife had come
14 to Piggy's place several times and asked to buy dope and
15 since they didn't have any dope for the man they were going
16 to rip him off because he had sent his wife a couple of weeks
17 before, by herself, with 40 thousand dollars looking for them.

18 Q Did you have any further conversation with Coco?

19 A Yes.

20 I asked Coco -- I told him, don't you do anything
21 like this because whatever you guys do, everybody knows you
22 campaigned for us and whatever the repercussions it will fall
23 back on us.

24 Q Did you have a conversation with Piggy?

25 A I confronted Piggy --

1

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Q When?

3

A Saturday, I think. It was over the weekend.

4

Q By the way, was Andy there?

5

A Yes.

6

Q What happened when you confronted Piggy?

7

A He was in the basement of my other house.

8

I said, Pig, what is going on with the dope and ripping somebody off? You live in my house. What's going on?

10

He said this man and woman came with the 40

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thousand dollars. She came by herself with 40 thousand

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dollars trying to buy dope and since we had no dope and they

13

were asking to meet you and we couldn't bring them to you

14

because you had no dope, we decided to rip them off.

15

Q When did he say that to you?

16

A On Saturday.

17

Q That would be the 17th?

18

A Yes.

19

Q Did you have any conversation with Piggy

20

regarding his using drugs?

21

A Yes.

22

At that time I also asked Piggy, I said, Piggy,

23

I also found out you were using drugs but before we spoke

24

to him we went to the basement apartment and searched the

25

apartment and found the works, a spoon burnt and a needle and

whatnot.

I said Pig, are you using drugs? His hand was swollen at the time also. He said no, I hit Frances and hurt my hand. I'm not using any drugs.

Q Was Andy present when you had this conversation with Piggy?

A Yes.

Q Did he say anything?

A Andy said, I found these things in the basement and if you are not using drugs somebody is. You cannot stay if you use drugs or people come here and use drugs.

Q What happened then?

A The next day --

Q Sunday?

A Yes. -- Pig was by himself in the apartment and we saw blood in the bathroom, drops of blood.

Andy said Pig, nobody was here. The blood is fresh. It wasn't dried, it wasn't clotted. You are using drugs and you have to leave my house.

As soon as you get a place, get out.

Q How often around this period of time, say, November 16 to November 27, did you go up to WWRL?

A We went over there probably three or four times a week. Almost every Friday we were there. We kept in close contact with them all of the time.

(Continued on next page.)

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P. Dinko-direct : A 77 472

DIRECT EXAMINATION

BY MR. QUAGLIATA: (Continued)

Q All right.

Now, do you remember seeing London or the other people on the 22nd, Thanksgiving?

A 22nd was Thanksgiving and they both on together, you know, on the same shift, and we brought them Thanksgiving dinner because --

Q Did you have any conversation regarding the drug transaction?

A It was mentioned. Again, we talked about it and they asked me if the parties had gotten in contact with me and I said not as yet, and I said I am trying to make contact.

Q Did you confront Boyd with what Burgess told you?

A Yes, I confronted Boyd with what Burgess told me and Boyd said, he told me the truth, he said -- Pig --

MR. APPLERY: I object to that.

THE COURT: Strike it out.

Q Just tell me what Boyd told you.

A Boyd told me this guy came from Washington, D.C. with his wife, that he was in the service with Boyd and that he knew Boyd from the service, they were together, that

1
2 the guy was in the medical corps and the guy came around
3 asking to buy dope and he took the buy to Pig and Pig had
4 sold the guy dope several times, or a couple of times, and
5 some guy, Melvin was the person who had supplied him with
6 the drugs.

7 MR. APPLEBY: Again, Judge. Again, your Honor,
8 there is no basis on which I can cross-examine
9 Mr. Boyd because Mr. Boyd is supposedly making these
10 statements. I ask your Honor to make the same ruling
11 with respect to what Mr. Boyd said.

12 THE COURT: Is he an available witness?

13 MR. QUAGLIATA: They know just as well as I do.

14 THE COURT: Is he an available witness?

15 MR. QUAGLIATA: To neither side at this point.

16 MR. APPLEBY: He is available to both sides.

17 What I am saying, Boyd does not come in for the truth
18 of the matter.

19 THE COURT: None of his is for the truth of the
20 matter, this is for the state of mind.

21 MR. QUAGLIATA: All right.

22 Q Now, when did you have this conversation with
23 Boyd?

24 A This was over the same weekend because I went over
25 to Boyd's house and got him to bring him to my house to speak

to him there.

Q This would be on the 17th and 18th?

A 17th and 18th.

Q 16th is Friday, 17th and 18th are a Saturday and Sunday?

A Yes.

Q Do you give Boyd any instructions?

A I told Boyd that the next time the man comes into town to please call me and try to make an appointment in the evening because we wouldn't be at home in the daytime.

Q Now, I will stop you there for a minute.

You had heard in this period of time, from Boyd, you said, that Piggy had sold drugs to another man. Am I correct?

A Yes.

Q Is that the first time that you learned about it?

A That is the first time I learned that Piggy was dealing in drugs also.

Q Did you have anything to do about any drug transactions?

A No, sir.

Q Did your husband have anything to do with drug transactions?

A No.

Q What did you tell Boyd to do?

A I told Boyd the next time the man calls him because he was supposed to be in Washington, to please call me in the evening and I wanted to speak to the guy.

Q Thanksgiving, does anything happen on the 22nd of November, that's Thanksgiving, does Boyd contact you regarding the man from Washington?

A No, he didn't, not on the 22nd.

Q When does he contact you, if at all?

A Boyd contacted me on the 27th and told me that the man was here.

Q Now, when on the 27th does Boyd contact you?

A It was in the evening about 6:00 or 7:00 o'clock, something like that.

Q Was Dick London in the radio station that evening?

A No.

Q What did you tell Boyd and what did you do after Boyd tells you this on the 27th that night?

A I told Boyd, probably the 27th, I am not sure on the time here, but I told Boyd, I said, go over to the Long Island Railroad and I will meet you there in 15 minutes.

Q Who do you go to the Long Island Railroad with?

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A My car wasn't working too well and we felt that if it was a hit for Andy or something --

MR. APPLEBY: I object.

THE COURT: Sustained.

Q Just tell me, this is a court of law, you couldn't say everything you want. Just tell me who you go to the Long Island Railroad Station with.

A We went with one of the tenants because we didn't want to use Andy's car.

Q Did Andy go?

A Andy was with me.

Q Tell me what happens next.

A We got to the Long Island Railroad and they dropped us off at the corner of Archer and Sutphin Avenue.

MR. APPLEBY: Who drops who off?

A The tenant.

MR. APPLEBY: The tenant?

THE WITNESS: Yes.

Q Tell me what happened then.

A Andy --

Q Did the tenant have anything to do with this?

A No.

Q What happens next?

A Andy then walked, this is on the corner of ARcher

1
2 and Sutphin, he drops us so we crossed the street and Andy
3 walked into the side street of the Long Island Railroad, the
4 side door, and I look across the street and see Boyd stand-
5 ing there with this guy in the car. I called Boyd over and
6 I asked him, is this the people that you are talking about,
7 you know. I said, you know, I want to speak to him. I want
8 to straighten this thing out. The guy came over and I asked
9 him, what is going on.

10 Q Hold it a second. How long did the conversation
11 take between you and -- what was his name? What did he give
12 his name as?

13 A Henry Whare. I had him spell his name for me.

14 Q How long did the conversation take place between
15 you and Whare?

16 A It took place about 45 minutes.

17 Q What were some of the things you discussed?
18 What did you say to him and what did he say to you?

19 A I asked him what was the problem and what was
20 going on. I also told him when we were coming in on the
21 Grand Central that we had seen him following us and we had
22 come from the union hall that day, and I said, were you
23 following us, and he said, no. He said the only way I know
24 how to come to Jamaica is come on the Grand Central and branch
25 off on the Van Wyck. He mentioned that the price is too much.

7 1
2 and I said how much did you pay, because I didn't know the
3 price and he said I can only pay 30,000, and he then said,
4 but I want a sample. I didn't know what he was talking about
5 so I said no sample, you know. Just \$30,000, whatever, and
6 he said, that I also took his license plate number with D.C.
7 plates on it. I said, do you mind me taking your number. He
8 gave me his address for the record shop in Washington, and I
9 asked him why are you coming to Coco and Piggy, don't you
10 know these guys are junkies and Pig is supposed to be using
11 drugs. He then mentioned to me that Pid had taken him several
12 times into a diner and at this diner there was a bald headed
13 fellow casing him out, looking at him, and he thought it was
14 funny and panicky and didn't trust Pig too much. He felt
15 that Pig was trying to rip him off.

16 I said, are you an agent. Why are you bothering
17 us. He said, I was in the service with Joe and I know Joe
18 and I am not an agent, he told me.

19 Q Now, was there any other conversation between
20 you and Whare, you thought his name was Whare?

21 A Yes.

22 Q About a ripoff?

23 A Yes. I told him I don't want you to come back
24 anymore to Pig because Pig is living in my house. He is
25 supposed to be moving and he's a junky, and I don't want

1
2 anything happening at my place because my husband is cam-
3 paigning and going through election procedures. We just left
4 his lawyer with filing complaints to the labor department
5 and don't want any problems. I said, when are you coming
6 back in town, let's make it definite. He said, I couldn't
7 make it definite. I will get in touch with Joe tomorrow
8 definitely, or the next day.

9 Q Tomorrow would be the 28th?

10 A Yes.

11 Q And the next day would be the 29th?

12 A Yes.

13 Q After the 27th when is the next time that you
14 reported what had happened to anybody at the radio station?

15 A I called Dick the next morning on the 28th
16 about 9:00 o'clock and said, I made contact, I think the
17 definite appointment will be today or tomorrow, I will call
18 you again. Let's tell Les and George to be alerted, if I
19 call, tell them what it is about and remind them.

20 Q Les and George were the people, one of which
21 was supposed to wear a wire?

22 A Yes.

23 Q What happens next?

24 A We waited and never got any call.

25 Q And up until today, did you ever get a call?

P. Dinko-direct

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A No, sir.

3

Q

You said that Pig was working with you in the campaign; is that correct?

4

5

A Yes.

6

Q

Did he ever have the key to either of your houses?

7

8

A

He had the key for both houses and the camper.

9

Q

How did he get the keys to either house, the camper, the door, or whatever?

10

11

A

We knew Pig the longest and trusted him the longest. When we campaigned, we took the car and camper. Some days Pig would get home before us. He had a key for the Brinkerhoff house at the time he was living on Farmers Boulevard.

12

13

14

15

16

Q

When did he get a key to the Brinkerhoff house?

17

A

Around March.

18

Q

March of what?

19

A

'73.

20

Q

When did he get a key to the Fernwood address?

21

A

He got two for that, a key for the gate because we have a lock on the gate outside, and a key for the basement. When he moved in to the basement, I think it was July.

22

23

24

Q

Do you remember when it was?

25

A

July or August.

2 Q Of what year?

3 A '73.

4 Q Did you at any time intend to sell any drugs
5 to anybody?

6 A No, sir. All I wanted to do was --

7 MR. APPLEBY: I object. The answer is no.

8 THE COURT: Yes.

9 Q Did you husband intend to sell drugs to any-
10 body?

11 A No, sir.

12 MR. QUAGLIATA: I have no further questions.

13 MR. APPLEBY: Your Honor, I move to strike that
14 last answer, I don't think she can state what her
15 husband's intentions were.

16 THE COURT: Yes. His intentions you cannot
17 ask about.

18 Q In 1973, or any other time, did you ever hear
19 your husband talk about drugs except to the reporters?

20 A No, sir, he never mentioned drugs until that
21 time.

22 Q Did you ever see him possess any drugs?

23 A No, sir.

24 Q Did you ever possess drugs yourself?

25 A We never possessed any drugs.

1
2 Q I have one other question. Thank you,
3 Mr. Appleby.

4 Do you remember where you were on the 14th of
5 November, 1973?

6 A Yes. We got up early that morning and we went
7 to our lawyer's office and that evening we filed a complaint
8 with the labor department, we went to see Mr. Parakus
9 who told us to come in on that date and file a formal com-
10 plaint to the Secretary of Labor.

11 Q Do you remember the testimony which placed you
12 in an apartment on that afternoon?

13 A Yes, sir.

14 Q At the time they said you were in the apartment,
15 where were you?

16 A I was downtown on Broadway by the Labor Depart-
17 ment at 26 Federal Plaza.

18 Q Where was your husband?

19 A He was there because it was his complaint.

20 MR. QUAGLIATA: I have no further questions.

21 MR. APPLEBY: May we have a side bar?

22 (OUT of hearing of the jury as follows.)

23 MR. APPLEBY: Your Honor, would this be an
24 appropriate time to break?

25 THE COURT: Yes.

11a

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P. Dinko-direct. A 88 482a

2

(In hearing of the jury.)

3

THE COURT: We will recess now. We will start

4

at 2:15 this afternoon. I was going to select a jury

5

but I won't. We will go on with this case.

6

(Luncheon recess.)

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PATRICIA DINKO, resumes the stand and
testifies further as follows:

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5

MR. APPLEBY: May I proceed, your Honor?

6

THE COURT: Yes.

7

CROSS EXAMINATION

8

BY MR. APPLEBY:.

9

10

Q Now, Mrs. Dinko, you testified this morning to
a number of conversations and meetings; is that correct?

11

A Yes, sir.

12

13

Q And this is your version of the facts;
is that correct?

14

A Yes, sir.

15

16

Q And one of the important dates in this case
is April 13, 1973; is that correct?

17

A Yes, sir.

18

19

20

Q And that's the date that you are alleged to
have given Charlie Johnson and Joe Boyd an ounce of heroin
they in turn gave to undercover agents; is that right?

21

A Would you repeat that, please?

22

23

24

25

Q That's the date, April 13, when you are alleged
to have given Charles Johnson and Joe Boyd an ounce of heroin
which in turn they gave to the undercover agents; that's what
you're accused of.

P.Dinko-cross

1

2

A Yes, the people accused us.

3

Q And so April 13 is an important date in this

4

case?

5

A Yes, sir.

6

Q And your testimony was this morning that you

7

were at the campaign headquarters for a period of time on

8

that very day; is that correct?

9

A I was at the National Maritime Union Hall on

10

Seventh Avenue on that date.

11

Q Until what time were you there?

12

A We were there until about five o'clock.

13

Q And from that point, where did you go?

14

A We went to Harlem.

15

Q Harlem?

16

A Right.

17

Q And what time did you arrive in Harlem?

18

A With the traffic, considering about six

19

o'clock, give or take.

20

Q When you got to Harlem, you arrived in Harlem,

21

where did you go?

22

A We dropped George Noble off at East 112th

23

Street, where he lived--

24

Q Who is George Noble, by the way?

25

A He is a union member that was also helping us

P.Dinko-cross

with the campaign.

Q That's your relation to him?

A Yes-- It's more than that.

Q It's more than that?

A Yes.

Q What is it?

A George Noble is my father.

Q O.K., you dropped George Noble off at East
112th Street?

A Yes, sir.

Q That was approximately what time?

A I said six o'clock, give or take, could be
five to six, six-thirty, we weren't checking the time. We
didn't know it was important.

Q Where did you go after you dropped your father
off?

A We went over to 114th Street -- when we
dropped him we stayed there. There is a social club right
where he lives, downstairs, we talked to some of the members
that was there--

Q May I ask you the name of the social club?

A I don't know the name.

Q What was the purpose of being at the social
club?

P. Dinko-cross

A We weren't at the social club. We dropped him off on 112th Street and there is a social club on the ground level, and some of the members were outside and we talked to some of the members outside -- Andy and I.

Q Andy was with you?

A Yes.

Q Did you know these people from previous occasions?

A They were union members or ex-pensioners -- not ex-pensioners -- ex-union members. Pensioners and active members, some of them.

Q Who were some of the people that you talked to?

A I think one of the people was Manuel --
I think --

Q Manuel what?

A I don't know his last name, because--

Q When did you first meet Manuel?

A I know Manuel down at the Hall. I see him go in and out.

Q I asked you when you first met Manuel.

A I say I have seen him go in and out of the National Maritime Hall.

Q When did you first meet Manuel?

A I never met Manuel; I know him by seeing him.

P. Dinko-cross

Q You don't know Manuel?

A I know Manuel, but you asked me if like I was introduced or met him. I was never formally introduced or met him.

Q You knew him by sight?

A Yes, I knew him by sight.

Q Where did you know him by sight from?

A From the National Maritime Union Hall.

Q This time that you met him at the social club in Harlem--

A Outside.

Q --outside, is the first time that you really had occasion to talk to Manuel -- yes or no?

A I didn't talk to Manuel; I said we met Manuel and other members--

Q Did you talk to Manuel?

A Andy conversed with them--

Q Did you talk to Manuel or did you not?

A I did not. I was present.

Q You were present?

A That's right.

Q Andy talked to Manuel?

A That's right.

Q To your knowledge, does Andy know Manuel?

1

2

A Yes, he knows Manuel.

3

Q Did Andy know him from the union hall?

4

A Yes, they sailed together; they were shipmates

5

some time back.

6

Q You met Manuel and your husband talked to

7

Manuel outside the social club but you didn't talk to Manuel?

8

A I was present. They were members and I was

9

just listening to whatever they were saying.

10

Q Right.

11

Now, you said there were a number of people

12

that you talked to at the social club; is that right?

13

A Outside the social club. There was Eddie

14

Mitchel.

15

Q Eddie Mitchel?

16

A Yes.

17

Q Who else?

18

A There was a guy called -- let me see -- Al

19

Matto, or something like that. It's a Puerto Rican or

20

Spanish name, and a couple of other members that I didn't

21

know personally.

22

Q Did your husband know them?

23

A I don't know. I guess he knew them. He was

24

speaking to them all.

25

Q Did it seem like he met them previously?

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A They knew each other, they were shipmates or brother members; I guess they knew each other.

Q To this date you don't know Manuel's last name?

A No, because--

Q I asked you yes or no. You don't know his last name?

A No.

Q For how long a period of time were you outside the social club talking to Manuel and Ed Mitchell and others?

A About ten or fifteen minutes because George--

Q I'm not asking why. Just how long.

A Yes.

Q After ten or fifteen minutes, what did you do?

A We went to West 114th Street.

Q Who lives at West 114th Street?

A Frank Arnold lives there.

Q Would you repeat the name?

A Frank A-r-n-o-l-d.

Q Did you go into his residence?

A No, we parked his car and he was waiting for us and we then went over to Footsteps, which is--

Q You go to 114th Street.

P. Dinko-cross

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A Right.

Q What happens there.

A He parked his car.

Q Who is he? Andy?

A No, Frank Arnold.

Q How did you come to meet Frank Arnold?

A He was waiting there for us. When we left the hall, he left in his car.

Q He was in the Union Hall on April 13th?

A Yes.

Q And then you met him on 114th Street?

A When we left the union hall we planned to meet after we dropped George off on the east side; we had met him on the west side.

Q Then you did meet him?

A Yes.

Q What happened?

A We met Frank at his car. He parked it, or it was parked already and we went over to St. Nicholas Avenue and 116th Street to Footsteps.

Q What's that, a bar?

A A bar and restaurant.

Q And you went inside?

A Yes.

P. Dinko-cross

1

2

Q So it's you, your husband--

3

A Ed Mitchell--

4

Q Ed Mitchell was with you?

5

A Yes.

6

Q You picked up Ed Mitchell at the social club?

7

A He left from the union hall with us.

8

Q Ed Mitchell came with you to the social club?

9

A He didn't come with us -- we went in the social

10

club --

11

Q I thought you stated that you met Ed Mitchell

12

outside the social club.

13

A I said he was also there speaking to the

14

guys with Andy. I said he was present. I didn't say we

15

met him there.

16

Q Did you go with Ed Mitchell with your husband

17

in the car to the social club? Was he in the car going to

18

the social club?

19

A Yes, he left the hall with us.

20

Q Then you all go to Footsteps?

21

A Yes.

22

Q You, Frank Arnold, your husband and Ed Mitchell?

23

A Yes.

24

Q How long did you stay at Footsteps?

25

A We stayed there at least four hours.

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Q Did you meet anybody that you know?

A We met the owner.

Q What's his name?

A Benjamin Wilson or Wilson Benjamin. It could be one way or the other.

Q Anybody else?

A We met some of the members up there. I think one was Sover.

Q He is a member of the club.

A This is not the social club; this is at Footsteps; this is a restaurant and a bar, not a club.

Q You met Sover?

A Yes.

Q Who else?

A A couple of members that came in and out. I don't recall all of them right now because it's a long time.

Q Of these people that you mentioned, Mitchell, Arnold, Sover, how many of these people do you intend to call as witnesses to prove your alibi?

MR. QUAGLIATA: She doesn't have to call anyone. I'll determine that.

MR. APPLEBY: I'm entitled to know what efforts she made--

P. Dinko-cross

THE COURT: She need not bring anyone into the court. There is no waiver at any time.

MR. APPLEBY: I understand.

Q Did you make any efforts to locate these people and call them?

A Yes, I have.

THE COURT: Just one moment. This goes to the availability or non-availability of a witness, which this witness can testify to. A person may or may not be available. It's not to prove anything.

Q Whom did you call?

A I called Frank Arnold.

Q Frank Arnold?

A Yes.

Q What was your conversation with him?

A I told him that I would like him to be here as a witness.

Q What did Frank say?

A He asked me to what?

Q Go ahead.

A And I reminded him that on April 13, the date that I got the ticket for meter feeding, a \$25 ticket, and there was a big argument with the cops down at the hall, which I was the one fighting about the \$25, which I was very

1
2 aggravated about, and he came with us to meet up in Harlem
3 and we met with him after that.

4 Q I asked about your conversation, I assume
5 over the telephone?

6 A Yes.

7 Q Tell us the conversation that you had.

8 A I asked him if he remembered when we got
9 that ticket and I fought with the cop outside the union hall
10 and he said that he remembered.

11 Q Did Frank Arnold say that he'd come in as you
12 requested?

13 A My attorneys are handling that.

14 Q Aren't you interested in whether he'd back
15 you up?

16 MR. QUAGLIATA: I object to that.

17 THE COURT: Yes, sustained.

18 MR. QUAGLIATA: I'm entitled to inquire as
19 to her good faith efforts in bringing in people who
20 she feels will establish an alibi.

21 THE COURT: No, this is not a question of
22 alibi. There is no question of alibi. It's a
23 question whether or not certain statements were made.
24 Alibi would be a different rule.

25 MR. APPLEBY: I think, your Honor--

P. Dinko-cross

THE COURT: Whether an alibi witness will appear, the length of time that would expire, whether or not it would be proper to do so, none of that is before the court. It's not an alibi witness. This is not the purpose of this testimony.

MR. APPLEBY: With all due respect, I believe Mrs. Dinko's testimony is contradictory--

THE COURT: That is what happens in all trials. It's for the jury to determine where the truth lies and what weight they should give to the testimony with reference to the witnesses on the same side of the case or opposite sides of the case, whether the discrepancy is such that you will disregard the testimony or just accept those parts which you think are true.

MR. APPLEBY: I will go on to a different subject.

THE COURT: Please.

Q Mrs. Dinko, another important date is September 20 and September 21; is that correct?

A Yes, sir.

Q These are the dates that you are alleged to have given a sample to Charlie Johnson, and an eighth of a kilogram to Charlie Johnson; is that correct?

1
2 A That's--

3 Q That's the testimony.

4 A Yes.

5 Q What were you doing on those dates?

6 A Like the officer said, maybe we were cleaning
7 our garden, fixing our lawn, and Andy came over to help him.
8 That could be possible. It's not every day--

9 Q I'm not asking whether it's possible. Do you
10 have any present recollection of what you were doing on those
11 dates?

12 MR. QUAGLIATA: If the Court pleases, if a
13 question is asked about a four-year conspiracy,
14 this lady should be given the right to answer in her
15 own terms.

16 MR. APPLEBY: I don't know what a four-year
17 conspiracy has got to do with it.

18 MR. QUAGLIATA: '71 to '74.

19 MR. APPLEBY: You're aware of the dates in
20 the conspiracy, Mr. Quagliata.

21 Q Do you have a present recollection of what
22 you were doing on those dates, not as to what is possible,
23 but what you remember doing.

24 A I don't quite recall, but I do remember receiv-
25 ing a letter from my attorney, Mr. Brownstein, where he said

1
2 he needed to see us urgently and I do not know if we went
3 up to see him on the 21st; I don't know. I can't recall.
4 I didn't call him.

5 Q Do you remember being home on those dates,
6 on Brinkerhoff Avenue?

7 A No, I don't remember.

8 Q Do you remember having a conversation with
9 Charlie Johnson outside of your residence on September 21?

10 A No, I don't recall.

11 Q You heard Officer Dworsak testify, when he
12 testified that you left your home, you walked around the
13 block, you came back to your residence, you talked to
14 Charlie Johnson and then both of you went back into your
15 residence. Do you recall the Testimony?

16 A Yes.

17 Q Do you have any recollection of that having
18 occurred?

19 A No, I don't recall.

20 Q Now, there comes a time when you have a con-
21 versation with Nick Burgess; is that right?

22 A Yes.

23 Q And Nick Burgess is the brother of Charlie
24 Johnson's girlfriend; is that right?

25 A Yes.

P. Dinko-cross

Q And the conversation with Nich Burgess concerns a possible ripoff; correct?

A Yes.

Q Could you tell us about that conversation in detail, as much as you can recall?

A Nick Burgess came to me--

Q Incidentally, where did this conversation take place?

A At my home.

Q Inside your home?

A Yes, inside my home, I assume.

Q Was your husband present?

A Yes, he was present.

Q O.K. Tell us what Nick Burgess told you.

A Nick told me that CoCo told him that they were planning to rip a man and his wife off, that had come and approached Piggy and CoCo with \$40,000 in cash, asking to meet us to buy dope from Andy and I.

Q When Nick told you "dope," did you know what type of dope that he was referring to?

A At the time I wasn't sure, but I did question further and I found out that they were talking about heroin.

Q Was this in this conversation with Nick Burgess?

A It's possible. I can't remember every single

P. Dinko-cross

1
2 thing, but I do recall basically that I did find out event-
3 ually it was heroin.

4 Q And this was from Nick?

5 A It could be from Nick; it could be from Joe;
6 it could have been from Pig or CoCo, because I questioned
7 all of them.

8 Q What else did you discuss with Nick Burgess?

9 A I discussed with Nick as to what is the person
10 and if he had seen the people before, and if this was pos-
11 sible and true and Piggy discussed it with him.

12 Q You asked Nick whether he had discussed it
13 with Piggy?

14 A Right.

15 Q Go ahead.

16 A And he said that CoCo had told him this.

17 Q Not Piggy?

18 A Not Piggy.

19 Q Go ahead. Any other conversation?

20 A He said also that they had -- CoCo had told
21 him that they were going to set the guy up the next time he
22 comes with this \$40,000, and about a week or two before he
23 had sent his wife with a briefcase with \$40,000 in cash,
24 by herself, looking for Piggy.

25 Q Who had sent-- Who with the briefcase was sent?

P. Dinko-cross

A This is what Nick Burgess told me.

Q Would you repeat that about the briefcase?

A He said about two weeks prior to the time he spoke with me, or maybe a week or so, that this man had sent his wife--

Q Who is "this man"?

A The man, whoever it was that -- The man and wife was trying to buy this dope--

Q This heroin--

A --was trying to buy and not sell. That this woman had come by with \$40,000 in a briefcase looking for Pig to buy the dope and Pig said the next time she comes or he comes they will take the money.

Q Did you ask Nick where this transaction took place?

A Yes, they said it was up at the shore place and they had this guy Henry-- didn't know his name -- with his wife, in some diner on Farmers Boulevard. I don't know where the diner was.

Q Anything else that Nick said?

A Nick said that they had asked him-- not they-- but CoCo had asked him if he knew anybody that can assist him in the ripoff of this money. He asked them about it and they said -- he said that he wanted nothing to do with

P. Dinko-cross

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it--

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Q This is what Nick said?

4

A Yes.

5

Q Nick was asked by CoCo and Piggy to join

6

in the ripoff?

7

A By CoCo.

8

Q CoCo asked Nick to join in the ripoff?

9

A Yes.

10

Q Is that all the conversation?

11

A He also told me that the reason he was telling

12

me this was because Piggy was living in my house-- if any-

13

thing should go wrong I will have to know about it definitely

14

and also Piggy was visiting his sister's house, and she will

15

get into problems with it also.

16

Q So in other words, Nick came to you to sort of

17

protect you in case anything bad should happen in your case?

18

A Protect? No, he didn't want anything to happen

19

really to his sister. He felt that he had enough control of

20

Pig and CoCo to divert this thing from happening, this ripoff.

21

Q Nick felt his sister was in some kind of danger

22

and he wanted to protect his sister?

23

A Primarily, and his secondary--

24

Q And therefore Nick came for help?

25

A He came to tell us what was going on.

P. Dinko-cross

Q He came to you for help also?

A I don't know if you'd call it help. He told us what was happening.

Q Anything else?

A He told me if I knew that Piggy was a junkie, which I didn't know either.

Q Now, at this point you know that there is a possible ripoff that is going to take place.

A Right.

Q What does a ripoff mean?

A Well, as far as I know, they were going to stick the man up and take his money.

Q Right. This was a narcotics peddler. You knew at that point that this was a narcotics peddler who had all this money?

A I guess "peddler," if that's the word you want to use.

Q When you learned of this possible stickup, did you call the police -- yes or no?

A No.

Q When you learned about this possible stickup, did you call the federal government?

A No.

Q When you heard about this possible stickup,

1

2

did you call the Federal Bureau of Investigation?

3

4

A No, because they wouldn't let me know the building--

5

6

7

8

Q I'm just asking you yes or no, when you heard about the fact that this man intended to sell \$40,000 worth of narcotics, did you call the Drug Enforcement Administration?

9

10

11

12

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14

A I didn't know there was a Drug Enforcement Administration.

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Q Were you aware that there are agencies investigating narcotics violations in the City of New York-- yes or no?

A I thought it was the FBI.

Q Mrs. Dinko, are you aware or were you aware then, that there are agencies in the City of New York investigating narcotics violations?

A Yes.

Q And were you aware that these agencies have telephone numbers in the New York telephone directory?

A No, I'm aware that they have numbers, but I wasn't aware of the numbers.

Q I'm not asking whether you were aware of the numbers, I'm asking you if their number could have been easily found in the New York City telephone directory.

1
2 A I didn't think of it.

3 Q Did Nick say to you, "Mrs. Dinko," he probably
4 called you Pat, "Don't you think we should go to the police
5 about this possible ripoff?" Did Nick say anything to that
6 effect--yes or no?

7 A No.

8 Q Did Nick say anything to you to the effect,
9 "There is a narcotics peddler who is about to meet Piggy
10 and CoCo. I think we should go to an agency that is in-
11 vestigating narcotics violations." Did Nick say that--yes
12 or no?

13 A No.

14 Q After you had this conversation with Nick,
15 what exactly did you do? What's the next step?

16 A The next step was that since I didn't know
17 for sure that this was really happening--

18 Q I'm just asking--

19 A I'm telling you what I'm doing. O.K.?

20 Q Let me ask this: Who did you go to see?

21 Q I went to the radio station reporters to get
22 their advice.

23 Q What radio station did you go to?

24 A I went to WWRL.

25 Q Of all the radio stations in New York City,

1
2 how did you come to go to WWRL?

3 A Because they were doing investigative work
4 on the N.M.U. and we were setting up an appointment to
5 see Signor McCullen.

6 Q Did you ever speak to anyone from WWRL prior
7 to the time you had gone to them after talking to Nick?

8 A Rephrase that.

9 Q When was the first time you met any employee
10 of WWRL?

11 A I had met employees of WWRL when Andy was beaten
12 in his camper, when we first started the campaign, and when
13 he was shot.

14 Q I am asking you when.

15 A I'm telling you.

16 Q When?

17 A I think March the 2nd or 3rd and--

18 Q Is that 1973?

19 A Yes--

20 Q After that incident occurred?

21 MR. QUAGLIATA: Let her finish.

22 THE COURT: Let her finish.

23 A --and May the 2nd and May the 4th.

24 Q That's the first time that you met any
25 employee of WWRL; is that right?

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A In March, 1973.

Q March 1973?

A Yes.

Q Who specifically did you talk to at WWRL on this occasion?

A When I first called in on the first beating that Andy got in his camper in front of the reporters that Saturday I called in to George Flowers, if I'm not mistaken-- Andy called in on the phone and gave the release.

Q Did you speak to anybody else?

A Dick London, George Flowers, and Les Campbell.

Q These are the witnesses that will be testifying after you?

A Not all of them.

Q Which of the reporters that you mentioned will be testifying?

A Les Campbell, George Flowers and Dick London.

Q Of those, how many did you meet prior to that meeting that you had with Nick when Nick reported to you the possible ripoff? All of them?

A Yes.

Q How many times did you meet those three individuals prior to that meeting with Nick personally? I'm not talking about over the phone. I'm talking about

P. Dinko-cross

personally?

A This was November, right?

Q I'm talking--

A O.K. November, and we're talking about March--
several times.

Q Give us your best estimate.

A Every time something happens we were harassed
or ticketed or whatever, we went to the radio station--

Q I'm asking you--

MR. APPLEBY: I ask that answer be stricken.

Q How many times?

THE COURT: Do you recall how many times?

THE WITNESS: Judge, it's a lot of months and
a lot of things were happening daily to us.

THE COURT: She doesn't know.

Q Would you say many, many times?

A Many, many times.

Q Now, was your relationship with these three
individuals purely on a professional side?

A Yes.

Q Did you ever socialize with these three
individuals?

A No.

Q And during those meetings with those three

1
2 individuals, were they taking down notes and writing --
3 writing stories concerning your campaign?

4 A Yes, they was taking notes at one time; they
5 would compile any informatio I give him, any summonses--
6 we let them know every move e.

7 Q Did any of those three individuals actually
8 help you in the campaign?

9 A No.

10 Q Did they write stories concerning your campaign

11 A They made their broadcast on the radio like
12 any other station.

13 Q You are down at WWRL, this is on what date
14 that you go down to WWRL?

15 A November 16.

16 Q Who do you meet there?

17 A I met Dick, George Flowers and Les Campbell.

18 Q Was your husband with you?

19 A Yes, sir.

20 Q Was Nick Burgess there?

21 A Yes.

22 Q Was there anybody else present?

23 A The engineer was called in at one time while--
24 In the conversation, he was called in at one point.

25 Q Anyone else?

P. Dinko-cross A 115

1
2 A Well, the D.J. was on the other side of the
3 glass--

4 Q I'm talking about the people who participated
5 in the conversation at WWRL.

6 A The five of us and the engineer came in at
7 one point.

8 Q Tell us what the conversation was at the
9 radio station.

10 A I told-- was told -- however -- Andy and I,
11 I'm speaking for him, too, or do you want me to speak for
12 myself?

13 Q You walk into the radio station. Who do you
14 go see?

15 A Yes, we go to the receptionist and announce
16 ourselves and we waited until Dick can see us in the news
17 room.

18 Q You asked to see Dick?

19 A Yes.

20 Q What's his last name?

21 A Dick London.

22 Q Go ahead.

23 A And we were allowed in after waiting maybe
24 fifteen minutes, I don't know -- I don't recall -- and
25 we went in and we told Dick that here we had a summons that --

P.Dinko-cross :

Andy was suing the Honest Ballot Association and the National Maritime Union for defamation of character that he shot himself.

Q What was that about him shooting himself?

A They said that he shot himself and the union printed something to that effect.

Q On the occasion that Andy got shot, where in relation to his doctor's office did he get shot?

A The parking lot behind the doctor's office. It's a parking field behind the office.

Q Is that about a block away?

A No, it's on the premises.

Q Was Mr. Dinko -- Did Mr. Dinko visit the doctor just prior to the shooting incident?

A We were visiting the doctor, actually.

Q Then you came out and that's when Mr. Dinko got shot?

A We both went down and I was getting my treatment. He went back upstairs to get a flier and when he came back he was bleeding and shot.

Q Did you see the assailant?

A No, I wasn't there.

Q Did Mr. Dinko identify the assailant at any time--

P.Dinko-cross

1
2 A He was never--

3 Q Did he or did he not identify the assailant?

4 A No.

5 Q That assailant has never been arrested; is
6 that right?

7 A But the case is not closed.

8 Q When did that case occur--what year?

9 A May 1973.

10 Q All right. That was a digression.

11 Let's go back to the radio station. You ask
12 to see Dick London. You wait for 15 minutes, and then you
13 do see him.

14 A Right.

15 Q What happens then?

16 A We gave him the summons and Andy made some
17 release at that time and when we got finished doing that we
18 told him -- you know -- this is the problem that we have.
19 We heard such-and-such--

20 Q The first--

21 A O.K.

22 Q Let me interrupt you. The first thing you
23 mentioned to Dick Young was this lawsuit that you have.

24 A Yes.

25 Q That was the primary concern to you?

P.Dinko-cross

1
2 A One of the primary concerns.

3 Q That was the first thing you mentioned.

4 A Yes, because we had to get that down first.

5 Q Then what do you say?

6 A Then we told him we were told by one of our
7 campaigners that two other campaigners was approached by
8 a man and a woman, wanting to buy dope, and wants to meet
9 us and have \$40,000 in cash.

10 Q What did-- Incidentally, is just Dick Young
11 there at that time--

12 MR. QUAGLIATA: All three.

13 Q What does Dick Young say--

14 MR. QUAGLIATA: Dick London.

15 MR. APPLEBY: I'm sorry.

16 A What did you ask?

17 Q When you told Dick London that there was a
18 possible ripoff, what was his response to that?

19 A I told him that I felt the whole thing was
20 union inspired for the reason no one sends a woman out with
21 \$40,000 cash around the states. I felt they were trying
22 to set us up because we had some problems with the union.

23 Q What did you feel was unusual about a woman
24 having \$40,000 on her?

25 A I wouldn't run around with \$40,000 cash, nowhere.

P.Dinko-cross

I'm scared to run around with \$200.

Q Do you consider it unusual with a woman interested in buying large amounts of narcotics, would have \$40,000?

A I still thought it was unusual for any woman to have \$40,000 walking around with by herself.

Q Even if she was a narcotics peddler?

A If she could afford to walk around with \$40,000 -- it just doesn't seem to make sense to me. I don't know. Maybe I'm wrong, but \$40,000 is a lot of money.

Q Tell us what the reporter said.

A We then talked back and forth as to what to -- To begin with, I wasn't sure that this was really true. I didn't know if Nick was lying. I didn't know if there was any truth to this thing, or if this was just a story.

Q I'm just asking you to recount as best you can, the conversation that took place at the news room.

A We talking about it and I told him how I felt.

(Continued on the next page.)

1 Q Tell us who said what to whom? Identify the
2 reporter. Tell us what he said. Tell us what you said.
3 Tell us what your husband said?
4

5 A Well, I won't be able to tell you what every
6 reporter said and everything I said because this is three,
7 four years ago; I can't do that.

8 Q I didn't ask you for everything. I'm asking
9 you for the substance of what each person said.

10 A The substance was that when -- wait.

11 Q Try to identify the speaker when you tell me?

12 A When the release was made on the tape recorder,
13 and they -- Andy made his release and then we -- we told
14 Dick and George and Les were there -- was there, and we
15 were talking and we were knocking ideas around.

16 Eventually, Dick came up with the idea that this will
17 be a good thing for an investigative report, and to show that
18 that the NMU is trying to set up everybody with the union
19 money.

20 Q Go ahead.

21 A And it was suggested that since Andy was the
22 candidate and we were not sure that it was a hit to get him
23 out in the street and since Jablonski was killed after he
24 lost the election we weren't taking any chances to put him
25 out on the street out there.

1
2 So, it was decided that I -- they had no interest to
3 kill me because I'm not a member and I can't run for office.
4 If he was the target, he shouldn't be the one to go out
5 there to be killed, and --

6 Q Who decided that it was you who was going to go
7 out in the street?

8 A Dick and Les and George. They decided this.

9 Q Did your husband have anything to do with this
10 decision?

11 A Well, at first he --

12 Q Yes or no, did your husband have anything to do
13 with this decision?

14 A Yes.

15 Q Okay, so all of the reporters decided that you
16 were the best one to go out and do this investigation?

17 A I decided also.

18 Q What other conversation did you have?

19 A Then it was -- Dick asked George and Les
20 if they would both volunteer to be rigged with a tape or
21 transmitter for the occasion that if they would be ready to
22 be available when I give them two -- at least two hours notice.

23 Q One moment. Dick asked the other two reporters
24 if they would be available with a tape recorder?

25 A No, no. Not a tape recorder, no. No, I didn't

P.Dinko-cross

say that.

Q With a body recorder?

A Right. If they would be ready to -- in other words, he asked them would you volunteer. He didn't tell them they had to do -- he said, would you volunteer because I am always on the t.v. and I'm recognizeable.

Q Okay. They volunteered; they did volunteer?

A Yes.

Q To wear a body recorder at a meeting that you were going to have?

A No, to be wired. I don't know if it's a body recorder. I don't know if it's a transmitter.

Q All right, Mrs. Dinko, a wire?

A Right.

Q Those were the two reporters who volunteered?

A Right.

Q Right. Go ahead.

A And it was arranged that I would go out and set up a definite appointment because all this time, all we doing is this one -- say this and you know, we weren't sure if there was even -- if there was any truth to this story. So he said, set up a definite appointment and once --

Q Dick Young said this?

A Yes. Set up a definite appointment. Once you

P.Dinko-cross

4 1
2 set up a definite appointment give us two hours notice or the
3 most notice that you can give us so we can be ready to go
4 with you when you have to meet this man to get this money, and
5 at that time we will expose the union and --

6 Q No. I'm just asking now what the conversation
7 is?

8 A That's what the conversation was.

9 Q This is what he said?

10 A Yes.

11 Q Tell us again then what he said?

12 A And should this man be from the union, we will
13 expose him and once I have notice, we will notify the autho-
14 rities to be there, when this thing is set up definite.

15 Q Okay. Go ahead. What was the other conversa-
16 tion?

17 A That was the gist of the whole conversation.
18 So it was arranged that I go out and set up a definite appoint-
19 ment and get back to them and they will take it from there
20 as to notifying the authorities and wiring the reporter
21 and everything else that was to be done.

22 Q Incidentally, did these three reporters, did
23 they ask you about Nick and Coco and Charlie Johnson, Piggy?

24 A Yes.

25 Q Did they ask you about their background?

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A Well, I -- I told them that.

Q Yes?

A I guess they did. We are talking -- probably we did. I can't say definite, but most likely we did.

Q What did you tell the reporters about them?

MR. QUAGLIATA: I object to this your Honor.

THE COURT: Excuse me?

MR. QUAGLIATA: I object to this.

THE COURT: Is it part of the conversation?

MR. QUAGLIATA: She says she -- I'll withdraw the objection.

THE COURT: All right.

MR. QUAGLIATA: She says she doesn't remember.

THE COURT: If she doesn't remember she can say that but if it's part of the conversation you can test her and find out whether she remembers.

MR. QUAGLIATA: I'll withdraw the objection.

THE COURT: Okay. Go ahead.

Q Go ahead, answer the question please?

A Like I said, I don't recall. Maybe we did discuss their background. Maybe we didn't, but maybe we did.

Q Okay, so you have no recollection?

A No. I'm not sure we did.

Q Did you relate the entire conversation as best

1
2 you can recollect?

3 A According to the questions you asked me, I
4 think I did.

5 Q Well, the question is, tell us the entire
6 conversation that you can remember?

7 A You tell me, give me the gist of it and I
8 gave you.

9 Q I wasn't there.

10 A I could not recall the entire conversation.

11 THE COURT: Is that the best that you can
12 tell us at this time?

13 Q Is there anything else you can remember about
14 that conversation?

15 A Right now, no.

16 Q Well, so the way it was left at the end
17 of the meeting, was that you would try to get in contact with
18 these narcotics peddlers; is that right?

19 A Yes.

20 Q And did you tell the reporters how you were
21 going to accomplish that?

22 A Yes.

23 Q Yes or no, did you tell them?

24 A Yes, yes.

25 Q Tell us exactly what you told the reporters?

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A That I will have to contact these campaigners that were approached and wait until the people approached them.

Q I see.

A And then arrange it. I couldn't do it any other way because I didn't know the people and I didn't know where to find them and I didn't know them.

Q So, the way it was left you were going to contact Coco Files and Charlie Johnson and tell Coco Files and Charlie Johnson that the next time the narcotics peddlers contacted them you should be immediately contacted?

A No. The next time that the man and woman with this \$40,000 ask him to meet me and my husband to buy some dope from us which we didn't know anything about. We want to meet these people.

Q And this is what you told the reporters you were going to do?

A Yes.

Q Okay. Now, did any one of the three reporters ever mention the -- strike that. Did any of the reporters state that it would be a good idea, based upon what you have told us, Mrs. Dinko, if we called the police? Did any one of the reporters say that; yes or no?

A They said --

Q Yes or no, Mrs. Dinko; did they say that?

P.Dinko-cross

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MR. QUAGLIATA: Judge, can she explain the answer?

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MR. APPLEBY: I think it calls for a yes or no answer, your Honor. She goes on and on and gives rambling answers.

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THE COURT: Let me hear the question.

THE WITNESS: Judge --

THE COURT: Just a moment.

(read back)

THE COURT: Do you remember that?

THE WITNESS: Yes, they did suggest that they will call the authorities in.

Q Who said that?

A The three agreed. I don't know which one said it.

Q Do you remember any one of the three reporters saying that, Mrs. Dinko?

A It was agreed also.

Q Mrs. Dinko, I'm asking a simple question?

A I told you I don't remember which one said it. I said it was agreed.

MR. APPLEBY: Your Honor --

THE COURT: She doesn't remember which one said it.

1
2 Q But one of them said it?

3 A Maybe all three said it. I don't -- I have
no way -- we agreed that the authorities will be called in
5 once a definite appointment was set up for this thing.

6 Q I see. It was an agreement to call the
7 authorities; is that right?

8 A Yes.

9 Q And it was your idea also then to call the
10 authorities?

11 A Yes.

12 Q I see. Did you in fact call law enforcement
13 authorities?

14 A Because --

15 Q Yes or no, Mrs. Dinko. Yes or no, did you?

16 A No.

17 Q And to your knowledge, did any one of those
18 reporters ever call the police; yes or no?

19 A I dont know.

20 Q Well, did you ever ask them if they ever called
21 the police?

22 A No.

23 Q Did any of the reporters say it would be a good
24 idea to contact the Drug Enforcement Administration or any
25 law enforcement authority investigating narcotics?

1

2

A The remark was used --

3

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Q Mrs. Dinko, yes or no, did any one of the reporters say that?

5

6

A They said authorities. They said authorities, as I recall.

7

8

Q Is it fair to state Mrs. Dinko, that that's the first time you ever thought of calling the authorities?

9

10

A I didn't know what to do until they tell me, until we talked.

11

12

13

Q Mrs. Dinko, I'm asking, was that the first time that it occurred to you to call law enforcement authorities, yes or no?

14

15

16

A It did occur to us but we -- we.

MR. APPLEBY: Your Honor, I think that's a question --

17

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THE WITNESS: It did occur to us.

THE COURT: The answer is no, that's not the first time; is that right?

20

21

22

Q When is the first time that it did occur to you?

23

24

25

A When Nick told us about it.

Q When Nick told you about it?

A Right.

1
2 Q Did you in fact call law enforcement authori-
3 ties?

4 A No. On second thought we --

5 MR. APPLEBY: No your Honor, everything is
6 because.

7 THE COURT: She didn't. All right.

8 Q All right, Now after the meeting, what did you
9 do? After the meeting with the reporters?

10 A After the meeting with the reporters, we went
11 into Manhattan and we came back home and next day I spoke to
12 Coco and I got --

13 Q Stop there, please; what's your conversation
14 with Coco?

15 A I asked him what the hell was going on, and
16 I want to know what was going on.

17 Q All right. What did Coco say?

18 A Coco said that these two people came and they
19 came to Piggy's house and Joe brought them to Piggy's house
20 and they were -- had 40,000 and wanted to buy narcotics and
21 he felt it was the union and he didn't want nothing to do with
22 it and you know, one of those things. I asked him what was
23 the name of the guy and he said the guy was Henry and he
24 said that the guy be calling to his house but he wouldn't
25 speak to him and he want nothing to do with him.

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Q Go ahead.

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A And I questioned him and he claimed he didnt know anything. I asked him if he knew Pig was a junkie and he said yes, he knew and I asked him why he didn't tell me and he said well, Pig is his friend. He's loyal to his friend.

8

Q Go ahead.

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Q Did Coco tell you that he did in fact at one point intend to rip off those two individuals?

20

21

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23

24

A When I confronted him with the question about the ripping off, he give me a cock and bull story, I call it, you know.

25

Q He denied it?

1
2 A He didn't -- he denied it and when I cornered
3 him he -- it came out he would have done it and you know,
4 it was just one of those things.

5 Q Well, you told him not to do it, in any event,
6 didn't you, on that occasion?

7 A I told him he'd better not do anything to get us
8 in trouble.

9 Q And what did Coco say?

10 A Coco said that he wasn't even speaking to the
11 guy. He hadn't seen the guy and he don't know what Piggy is
12 doing with the guy and he don't know nothing.

13 Q So you were under the impression at that point
14 that Coco was not going to rip off the two individuals?

15 A I was under the impression that Coco was
16 lying.

17 Q You did think he was going to rip off those
18 two individuals even at that point?

19 A Maybe, yes. Maybe no, but --

20 Q Okay. Now, at that point, Mrs. Dinko, did
21 you call the police?

22 A No.

23 Q Did you consider calling the police?

24 A No.

25 Q Okay. Have you related to us the entire

1 conversation between you and Coco on this occasion?

2 A As far as I can recall at the moment.

3 Q Okay. Then you go to somebody else, right?

4 A Yes. I went to Pig.

5 Q Okay. Incidentally, where did you talk to
6 Pig on this occasion?

7 A In the basement, in the house that he lived.
8 He lived in my house at that time. In the house next door.

9 Q Okay. What's your conversation with Pig?

10 A I asked Pig if he was a junkie. That was the
11 thing with Pig and he tried to deny it and his hands were
12 swollen and I asked him about his hands being swollen and he
13 said he hit Frances and his hand was swollen and he said
14 he wasn't a junkie and I knew he was lying and I asked him
15 about this guy that came --

16 Q Incidentally, how did you know he was lying?

17 A Because we found the spoon and some burned
18 spoon in the kitchen and --

19 Q I'm sorry? I didn't hear what you said. Spoon?

20 A We found a spoon that was burned.

21 Q And what -- when did you find that burned spoon?

22 A I found it when I went into the basement and --
23 Andy and I and wh searched the basement for any evidence of
24 drugs or anything down there.
25

P.Dinko-cross

1
2 Q Right. When you made that search, was that
3 prior to your meeting with Pig?

4 A Yes.

5 Q It was?

6 A Yes.

7 Q Okay, can you recall approximately when that was?

8 A That was over that weekend. After I spoke to
9 Dick and the other reporters.

10 Q Right. Then you found a burned spoon?

11 A Burned spoon and a needle.

12 Q When you saw that burned spoon, what did you
13 think?

14 A Andy and I looked at each other and -- with the
15 burned spoon was wrapped needle that you use for you know,
16 for shot, and with a rubber or something on it and we figured
17 it had to be what he uses to shoot himself.

18 Q Well, how did you figure that was the stuff
19 that he used to shoot heroin?

20 A Well, what would you -- what would he be doing
21 with this kind of equipment, you know. I don't know. It had
22 to be for that purpose. He's not a doctor, and if a doctor,
23 would have a regular syringe.

24 Q Did you see any heroin in his apartment when you
25 found those implements?

A No.

GR/ed 1
2PM-2

P. Dinko-cross A 135 528

2 CROSS-EXAMINATION

3 BY MR. APPLEBY: (Continued)

4 Q The burned spoon was significant to you; is
5 that right?

6 A The burned spoon and the syringe, or whatever
7 you want to call that thing. I don't know what to call it
8 because it wasn't a syringe. It was a needle with a rubber.

9 Q Okay. Go ahead with your conversation with
10 Charlie Johnson, Piggy.

11 A We told him that we found, you know, we -- we
12 didn't tell them that we found it at that time.

13 Q Your husband is with you at the present time?

14 A Yes. We didn't tell him we found it at that
15 time but we knew he was lying to us, so later on in the day
16 or the next day we came over and he alone was in the base-
17 ment by himself, and we found blood drops in the -- in the
18 bathroom and it was still wet, and Andy went inside and woke
19 him up and asked him about the blood on the -- in the bath-
20 room on the towels.

21 Q What did he say?

22 A When we confronted him, then he said that he
23 didn't want to tell us that he was on junk, and, you know,
24 he made crazy excuses then.

25 Q Did you talk to Charlie about the ripoff?

P. Dinko-cross

A Yes. I asked him about the ripoff and he claimed no knowledge of anything. He said it was Coco.

Q It was Coco?

A Yes. And he told me that this --

Q Mrs. Dinko, did you tell Charlie Johnson in any event if you're thinking about doing that ripoff, forget about it?

A Yes, I did.

Q What did he say?

A He said, well, he don't have to forget it because he never intended.

Q Okay.

After this conversation with Piggy, what happens then?

A I told him that he has to get out of here. That I didn't want him in my house if he was using drugs and messing around.

Q But in terms of your plan, your investigation, what did you do?

A I called -- investigation? How you mean? I don't understand.

Q You're trying to figure out who these people -- who these narcotics dealers were, weren't you?

A Right.

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Q Okay. What did you do in furtherance of your plan?

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A Oh. I asked him about Joe also at that time, if Joe was there with some people like Nick had told me, and he said Joe brought some people there to him, that was with this money and what not.

8

9

Q Wait, wait. I'm sorry? You talked to Charlie about Joe Boyd?

10

11

A Yes. I asked him about Joe.

12

13

Q And what did you ask about Joe?

A I asked him, I said, I heard, because when I spoke to Coco --

14

15

Q Wait. I'm not asking because. I'm asking what your conversation with Charlie Johnson was about Boyd.

16

17

A I asked him when last you saw Joe and I heard that Joe brought these people to your place.

18

19

Q Okay. Stop there for a moment. Where did you hear about Joe Boyd bringing these people to your place?

20

21

Whom did you hear that from?

22

23

A Not to my place.

24

25

Q To Charlie Johnson's place?

A Yes.

Q Whom did you hear that from?

A Coco had told me.

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Q Coco told you that?

3

A Yes. He said it wasn't him. It was Joe, not

4

me. I got nothing to do with it, you know. I don't do that,

5

he said.

6

Q Okay.

7

What else did Charlie Johnson say about Joe

8

Boyd?

9

A He said that it was Joe and Pig and he don't know

10

what was going on there and that Joe had brought the people

11

there, and he -- when he was living on Farmers Boulevard, and

12

then he didn't see the people no more, and then his girl came

13

with some money and they -- they thought it was suspicious.

14

Q All right.

15

So now at this point, you know that Joe Boyd

16

might be involved in this, right?

17

A Yes.

18

Q Okay. So did you go see Joe Boyd?

19

A Yes. I went to his house. I called him. I

20

went to his house to pick him up and brought him back to my

21

house.

22

Q And you had a conversation with Joe Boyd?

23

A Yes.

24

Q All right. What was your conversation?

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A Joe said that this guy was from Washington,

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D.C. and was his friend and he was in the service together with him, that he was from the medical corps and he knew him, I don't know how many years, and Joe was calling the guy Henry or John, or something of the sort and --

Q When did this conversation with Joe Boyd take place?

A Probably the Saturday or Sunday, because everything happened over that weekend.

Q The Saturday or Sunday prior to your meeting with the undercover agent?

A This was the 17th and the 18th.

Q 17th and 18th of November?

A Right.

Q Incidentally, when did you first meet Joe Boyd?

A Joe Boyd, he came to my house.

Q When?

A To build a fence, in 1972, the summer of '72. Something like that.

Q And did Joe Boyd work in the election campaign?

A Not really. Joe was more -- he came to the house to do handy work, to cut the lawn and if I had something to do with flyers, to staple them together, he did it, but he was not an official campaigner or regular campaigner.

Q When you had this conversation with Joe Boyd,

you know Joe Boyd's involved in narcotics also, don't you?

A I suspected.

Q He told you then?

A Yes.

Q And he -- in effect told you that he was involved with these 2 individuals who had \$40,000 and were looking to purchase narcotics? That's what he told you?

A I guess so. I'm not sure. I'm not sure what Joe told me.

Q Well --

A About the 40,000. Because if I can recall, probably -- I know 40,000 was jumping around. I know Coco told me and Pig told me. I'm not sure about Joe now.

Q You knew that Joe Boyd was talking about the same people that you knew could possibly be involved in this ripoff?

A But Joe said --

Q Yes or no, did you know that?

MR. QUAGLIATA: Judge, I'm going to object to this.

MR. APPLEBY: I think these are yes or no questions, your Honor. Did she know that, yes or no.

MR. QUAGLIATA: It's not a question of knowledge. It's a question of what people told her.

P. Dinko-cross A 141

THE COURT: No. That question is a yes or no question, though.

A Would you repeat the question?

Q Yes or no?

A What -- Repeat the question.

Q I'll do that, Mrs. Dinko. When Joe Boyd came -- when you talked to Joe Boyd on this occasion, the 17th or 18th, as you related it, when Joe Boyd told you about these 2 individuals who he was involved with in narcotics, you knew, he was talking about the same 2 people who Coco and Piggy were thinking about ripping off?

A Yes.

Q Okay.

Tell us about -- now continue with your conversation with Joe Boyd.

A I asked him about ripoff and he said he knew nothing about it. I asked him about selling of narcotics and he told me yes, him and Pig bought narcotics from some guy named Melvin and sold it to these people.

Q Go ahead.

A That's what he knew about it and that the people were supposed to come back again and something was mentioned about us, Andy and I.

Q Well, did you question him on that?

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2 A Yes, I did.

3 Q What did Joe tell you?

4 A Joe said that it was Coco-s suggestion that
5 since Andy and I was, you know, Black and white, and we had
6 this big camper, we were running this campaign, that instead
7 of using a schmuck like Melvin, who was a taxi driver, they
8 say that we were their people so that it looked good, you
9 know. So they impress them that we were something.

10 A They were BSing these people that this was the
11 situation and we didn't know anything about it.

12 Q This is what Joe said that Coco had told -- no.
13 Strike that.

14 You're now relating what Joe Boyd said that
15 Coco Files had said?

16 A Yes.

17 Q Okay. Continue with your conversation with
18 Joe Boyd, please.

19 A Joe said that the guy was supposed to get in
20 contact with him again and I told him, whenever he gets in
21 contact with you, please call me and try to make it for in
22 the evening when I'm home, call me and let me know when the
23 man going to see you again.

24 Q Did Joe ask you why he was supposed to do this?

25 A No, he didn't ask me. He said okay, Pat, I'll

1
2 let you know.

3 Q Did he ask you why you were interested in know-
4 ing about when these people were going to call you?

5 A Not me. Call him.

6 Q I understand that, but didn't Joe Boyd ask you,
7 Hey, Pat, why are -- why are you interested in knowing
8 whether people that I'm dealing in narcotics with are going
9 to call me? Didn't he ask you that?

10 A No, he didn't.

11 Q But he did agree that he'd call you, in any
12 event?

13 A Yes.

14 Q All right.

15 Is there any other conversation with Joe Boyd?

16 A When the agent, or whoever, came in -- now I know
17 he's an agent.

18 Q I'm sorry, Mrs. Dinko, but after this conversa-
19 tion with Boyd, did you call the police? Yes or no?

20 A No, because Joe didn't tell me about a ripoff.

21 Q Joe told you about the -- that he was dealing
22 in narcotics with people, didn't he? Yes or no?

23 A I'm not a drug enforcement agency.

24 Q Mrs. Dinko, you knew at that point that Joe
25 Boyd was dealing in narcotics, did you not?

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2 A Yes.

3 Q And did you give any thought to the idea of
4 calling up 911? Yes or no?

5 A No.

6 Q And you knew that Joe Boyd was about to meet
7 the 2 individuals who were interested in purchasing \$40,000
8 worth of narcotics? You knew that, didn't you?

9 A Yes.

10 Q He -- and did you give any thought to calling
11 911?

12 A No, because I had my own plans going.

13 Q I'm asking you yes or no? No.

14 MR. APPLEBY: Your Honor, I would ask that you
15 instruct the witness not to give because all the time.
16 I think I'm asking yes or no questions.

17 THE COURT: Some of them are not. There is a
18 question sometimes whether they can answer that way.

19 MR. APPLEBY: All right.

20 Q Did there come a time when Joe Boyd did in fact
21 call you?

22 A Yes.

23 Q When was that?

24 A On or around November the 27th.

25 Q Okay. He called you?

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2 A Yes.

3 Q What did he tell you?

4 A He said my -- my friend from Washington D.C.
5 that you asked me to call you when he comes in is here.

6 Q Okay.

7 Do you recall approximately what time he called
8 you?

9 A It was about -- about 7:15, 7:00 o'clock. Right
10 in there.

11 Q Evening?

12 A Yes, in the evening.

13 Q Okay. What else does Joe say?

14 A I told Joe, I say you go over to Long Island
15 Railroad station and I'll meet you over there on Archer Avenue.
16 In 15 minutes.

17 Q This is what you said?

18 A Yes.

19 Q So it was you who decided that the meeting would
20 take place in 15 minutes from the end of that conversation; is
21 that correct, Mrs. Dinko?

22 A Yes.

23 Q Yes or no.

24 A Because that's the time I needed. To get to the
25 station.

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2 Q I asked you if you were the one who decided that?

3 A Yes.

4 Q Okay.

5 Then you did in fact go to the railroad station;
6 is that correct?

7 A Yes.

8 Q Now --

9 THE COURT: Maybe this is a good time to take
10 a recess right now.

11 MR. APPLEBY: Okay.

12 THE COURT: Take a short recess.

13 (Recess taken.)

14 (Continued on next page.)

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CROSS-EXAMINATION

BY MR. APPLEBY: (Continued)

(The jury entered the courtroom at 4:00 p.m.)

(Patricia Dinko resumes the stand.)

Q I believe we left off, you had a conversation
with Joe Boyd --

THE COURT: No, you were at the railroad station.

MR. APPLEBY: May I pick up and go back for one
moment?

THE COURT: Yes, all right. We have already passed
that point, however.

Q During this conversation with Joe Boyd, you
told him that you would be at the railroad station in 15 min-
utes?

A To meet me at the railroad station in 15 minutes.

Q Right. Then exactly what did you do?

A We had my tenant --

Q Who is your tenant?

A Earnest Cotter, because we were having a little
problem with our car coming in on the Grand Central, so I
asked my tenant if he would drop me over at the railroad sta-
tion on ARcher Avenue.

Q Did he?

A Yes, Andy and I, he dropped both of us.

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2 Q Incidentally, was there a dog with you?

3 A No.

4 Q Did you go directly to the railroad station?

5 A When he dropped us, he dropped us off at
6 Archer and I saw Joe Boyd standing outside of the car, and I
7 called Boyd over.

8 Q What was your conversation with Boyd?

9 A I asked Boyd if this is the man that you people,
10 you know, that I asked you to set up the appointment, not set
11 up the appointment but to tell me when he comes in. Is this
12 the man who comes in with his wife.

13 Q Go ahead.

14 A And he said yes.

15 Q Go ahead.

16 A And I walked over, I think I signalled the
17 guy over and he walked over and I asked him, I said, what is
18 your problem, what is happening here, and he then said, well,
19 it is no problem, he said, I am looking to buy some dope, and
20 you know the price is too high. I said, what is the price,
21 because I didn't know the price. He said, \$30,000.

22 Q Did you know -- you knew he was talking about
23 heroin at this point?

24 A I guess so. I didn't know it was heroin because
25 he didn't even say dope. He just said I am looking to buy

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something.

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Q

So you knew it was narcotics, but you didn't know what type of narcotics?

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No.

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Go ahead.

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And I said okay, I said, well, you know, what are we going to do, because I led him on because I didn't know what to really do about the whole thing. I was just letting him carry the ball in other words.

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Q

What was the conversation?

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He told me \$30,000 and he said I want a sample. So I said a sample? I said, \$30,000, whatever it is, \$30,000.

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Q

You said \$30,000?

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A

He told me \$30,000 and I just repeated what he said because I didn't know what he meant by a sample so I just repeated, to make conversation. Then I asked him. I said, do you mind me taking your license plat number, and he said, no, I am legit, I am all right, I am just a hustler out here. I said, listen, are you an agent, a federal agent or anything of the sort, are you an FBI or cop, because these boys are planning to rip you off and I want to know what is going on. I said my husband is running for election, he is going through an appeal and we just got back from the lawyer's office and we have a lot of things going, we are suing the

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P. Dinko-cross

union and we want to know what the hell is going on here. He then told me that he had a man he was buying dope from, I guess that's what he meant. He didn't mention dope, and the man is going to retire and he needed a new connection and one conversation led to the other and I asked him if he knew they were planning to rip him off and he said he was in the diner, and there was a fat guy in the diner sizing him up, and every time he comes Piggy takes up to this diner and he felt he was being set up, this is why this time he came to Joe and he got in contact with Joe. Then he told me, I said, is that your Cadillac and he said, yes, that's my Cadillac. I said, you know, where do you live in Washington and who do you live with and what is your wife's name. He said my wife's name is Sara Whare and he told me his name was Henry Whare, because I asked him to spell it. He told me he had a record shop named Henry's Record Shop in Washington and he gave me an address, southeast 22nd Street, or something like that in Washington. one of those kind of addresses, and I said I will check to see what is going on here. I said when do you want to come back, and he said to him -- he said -- I said give me enough notice and let Joe know when you are coming in.

Then we talked about the fact of him riding around with this big Cadillac and he said that Pig and Coco told him to come around with this big Cadillac because they were

P. Dinko-cross

splurging and they told him how they used to splurge. I told him Pig was a junky and I said you better stay away from those junkies because they will mess you up.

Q The purpose of your meeting with this individual was to find out whether he was from the union?

A Yes. I did mention the union and the campaign and what was going on, and he didn't give me no reply. I also asked him at that time the fact that I recognized the car when I saw it, I said, how come we left out of the union and the lawyer today and coming in on Grand Central you were behind us, we stayed on Grand Central and you branched off on Van Wyck, and he said that's the only way he knew how to get to Jamaica and it was a coincidence that he was behind us.

Q What did you do after this meeting?

A I called Dick London and told him I met the man and set up a definite appointment for the next day or the following day.

Q When did you speak to Dick London after this meeting, how soon afterward?

A The very next morning because the --

Q That would be November 28th?

A Yes.

Q Now, you knew prior to your meeting with this

P. Dinko-cross

individual that you were going to meet a narcotics dealer.

Isn't that right?

A Yes.

Q And you knew, of course, that meeting a narcotics dealer is risky business. It was dangerous. Yes or no?

A I never believed he was a narcotics dealer. I thought he was sent by the union with this money.

Q Prior to this meeting, you thought he was not a narcotics dealer?

A No, I didn't think he was a narcotics dealer, although Joe said he bought narcotics from him, I still thought he was a plant.

Q You didn't believe Joe?

A I believed Joe sold him drugs, but I didn't believe he was a dealer. I believed he was a person from the union and he made some buys just to get close to us.

Q So, since you felt he was from the union and trying to set you up, you felt that you were not in any danger?

A No.

Q Now, you knew at least that there was a possibility that he -- you knew there was a possibility, and you weren't definite about the fact that he was a union person, were you?

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2 A Well, let's put it this way, I was 90 percent
3 sure, in my mind.

4 Q You were 90 percent sure?

5 A In my mind.

6 Q What made you 90 percent sure?

7 A Because I felt that nobody will go out in the
8 street with \$40,000 in cash with a woman. I wouldn't walk
9 the street with \$40,000 cash. This had to be a plan and some
10 kind of a setup, and the only way this money was put out was
11 with the union.

12 Q This was a man, wasn't it?

13 A The woman, they told me the woman came with
14 \$40,000 a couple of weeks before when I spoke to Joe and the
15 others.

16 Q Now, you knew there was a man involved here?

17 A I knew that the man was involved because they
18 told me it was man and wife.

19 Q And you didn't consider the possibility that a
20 largescale narcotics dealer might be interested in purchasing
21 \$30,000 worth of narcotics, didn't you think that was a dis-
22 tinct possibility?

23 A No.

24 Q Well, let's take the 10 percent. You knew there
25 was a 10 percent chance that he was a narcotics dealer, isn't

8 1
2 that right?

3 A Ten percent that he could be a narcotics dealer --

4 Q And you knew that narcotics dealers are dangerous
5 propositions, didn't you know that?

6 A No. I thought he could have been an agent also.
7 I didn't know for sure who he was. But there was a 10 percent
8 chance he was a cop himself, he could have been a narcotics
9 dealer, but 90 percent in my mind that he was sent by the
10 union that he was not a cop or a narcotics dealer.

11 Q But, I mean, if it was a 10 percent chance you
12 were in effect taking a big risk, weren't you, if you thought
13 he was a narcotics dealer?

14 A I had no narcotics on me. I only went to set
15 up an appointment. When I set up an appointment, the reporters
16 were coming with me. I had no problem to fear.

17 Q Mrs. Dinko, did you think prior to this meeting
18 that you would be talking about narcotics with this individual?
19 Yes or no?

20 A Prior --

21 Q Prior to your meeting with this individual, did
22 you think that you were going to talk to this person about
23 narcotics?

24 A I was going to talk to him about setting up a
25 definite meeting.

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2 Q You knew that this person was going to talk
3 about narcotics, didn't you?

4 A Yes. He was supposed to.

5 Q Okay.

6 Incidentally, do you know what an eighth is?

7 A No.

8 Q Do you know what a quarter is?

9 A No.

10 Q Do you know what an eighth is in relation to
11 narcotics?

12 A No.

13 Q Do you know now what an eighth is?

14 A I still don't know.

15 Q After listening in this trial for the last week,
16 you don't know what an eighth is?

17 A You mentioned about an ounce that was a half
18 ounce or something that was an eighth. I still don't know
19 what it is.

20 Q Are you sure of that?

21 A Yes, I am sure.

22 Q And are you sure you don't know what a quarter
23 is?

24 A No, I don't know what that is.

25 Q Do you know what spoon weight is?

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A No.

Q You don't know now?

A I still don't know what it is.

Q Do you know what scale weight is?

A Scale weight? That's something if you weigh it on a scale. I don't know what scale weight is in narcotics but scale weight should be something you weigh on a scale.

Q Do you know what quinine is?

A Quinine?

Q Yes.

A No, I don't know what quinine is.

Q Have you heard of the substance quinine?

A I heard you mention quinine here in the court, but I don't know what quinine is.

Q Have you ever heard of a substance called bonita?

A Bonita?

Q Yes.

A No, I have never heard of bonita either.

Q Did you ever hear of the term cutting?

A Except mentioned in this court. All these terms were mentioned here and that's when I heard of them, and when you questioned me when you arrested me, that's the only time I know of those terms.

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Q Now, so prior to your meeting with this individual on November 27th, you didn't know what any of those terms meant. Is that right?

A That's right.

Q And did you take any steps prior to your meeting with this individual to prepare yourself and able, to enable yourself to converse with this person?

A No, because I felt --

Q Just yes or no.

A No.

Q Now, Mrs. Dinko, getting back to this telephone call that you received from Joe Boyd telling you about this meeting, you didn't call the reporters then, did you?

A What?

Q Did you call the reporters, the 3 reporters that you mentioned? Did you call them, yes or no?

A We were supposed to set up a definite appointment.

Q Yes or no, did you call them?

A I wasn't supposed to call them at that point.

MR. APPLEBY: Your Honor, I ask that she answer the question, did she or didn't she call them.

THE COURT: Yes or no.

A No.

P. Dinko-cross

Q Wasn't it the whole idea that one of the reporters was supposed to be at that meeting with a wire on him?

A Not at that point.

Q What point were they supposed to be down there?

A After a definite meeting was set up. This wasn't a definite meeting because I didn't know the people, didn't know who it was and I didn't even know if I was going to meet anybody.

(Continued on next page.)

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P. Dinko-cross

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CROSS-EXAMINATION

BY MR. APPLEBY: (Cont'd.)

Q Who did you think you were going to meet?

A I still had to set up a definite appointment.

Q Who did you think you were going to meet?

A That wasn't a definite appointment --

Q The simple question is who did you think you were going to meet on November 27th?

A Whoever it was but to set up a definite appointment.

Q This was an indefinite appointment?

A Yes, because I didn't know when the man was coming from Washington or wherever. I got a call at 7:15 that the man is here the reporters told me to meet him and set up a definite appointment so they can have two hours time to be ready and be there.

Q When you went to the LIRR station did you think you were going to meet that individual, yes or no?

A To set up a definite appointment, yes.

Q You went down to the RR station to meet this individual to make another appointment?

A Yes, sir.

Q Where did you get that impression from?

A From the plans we made. That's the way it

P. Dinko-cross

was supposed to be done.

Q Is that what one of the reporters told you?

A That's what we all decided on, that a definite appointment was to be made. That I was to make an appointment and set up a definite appointment whether by phone or in person.

Q And you felt this was not a definite appointment?

A No.

Q You thought that person might not show up?

A I didn't know he was coming in until I was called at 7:00 o'clock. I had to give them two hours notice after I set up a definite appointment.

Q Did it ever occur to you to tell Joe Boyd: I will meet that individual at the LIRR station in two hours?

A That was not the plan. We were supposed to set up a definite appointment first. I was to make contact.

Q Who said there was supposed to be two meetings? Which reporter?

A We all decided.

Q If you can recall, tell us.

A I don't know which reporter but that the overall plan.

Q This idea was supposed to be two meetings?

P. Dinko-cross

A That's right.

Q Did that meeting originate with you or the three reporters?

A With all of us when we were talking. I don't know who said it definitely but it was originated at that meeting.

Q You didn't tell us about these two meetings when you had this conversation with the reporters at WWRL.

MR. QUAGLIATA: I object to the colloquy prior to the question. If we read the testimony she said before she had to make contact.

THE COURT: Ask your question and skip the colloquy.

Q Let us go back to the news station. You are there with your husband and the three reporters. Tell us what the plans were.

A The plans were that I was supposed to make contact and set up a definite meeting. What kind of contact -- I didn't know the people and I didn't know how I was going to get in contact with them but I was delegated to set up the contact. After the contact was set up and a definite meeting was planned after we made contact then the reporters would come in on a definite day and time. In order to do this I had to speak to the agent personally on

1 the phone which I didn't know was an agent at the time I
2 thought he was from the union, or meet him personally to set
3 up the plan.
4

5 Q Do you think it would be a good idea that the
6 reporters came down to the first meeting on November 27th?

7 A No.

8 Q Do you think it might have been a wise idea
9 to tell Joe Boyd: Keep that guy away for two hours, I will
10 be there in two hours, and did it ever occur to you to call
11 one of the reporters at that point?

12 A That was not the plan so it never occurred.

13 Q Did it ever occur to you to tell Joe Boyd:
14 I will meet with that man tomorrow or the next week or the
15 next month?

16 A No --

17 MR. QUAGLIATA: Wait a minute. I object to
18 this as being repetitive. Asked and answered many
19 times.

20 THE COURT: No.

21 Q Did it ever occur to you to tell Joe Boyd: I
22 will meet that guy at the LIRR station but make it tomorrow.

23 A I never told him I would meet the man but told
24 him to call me when he comes into town. There was never any
25 appointment with Joe Boyd for him to meet me with the man.

F Dinko-cross

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THE COURT: It didn't occur that way, that's what she's saying.

A I told him when the man comes to town, call me and let me know, I didn't even want Joe to know.

Q You were in control when that meeting was to take place?

A No.

Q Didn't you testify it was your idea to tell the man you will be there in 15 minutes?

A I was not in control with the situation and didn't know when he was going to be in town. I had to wait and trust Joe Boyd to tell me when he comes. I have to protect myself. I couldn't trust these people who were around me anymore. I had to look out for myself and my husband and my kids

MR. APPLEBY: Your Honor, I don't think there is a question.

THE COURT: There is no question.

Q Whose idea was it to meet at the RR station on November 27th, was it your idea, Joe Boyd's idea?

A When he called --

Q Mrs. Dinko --

A I am answering you.

Q The question is who?

P. Dinko-cross

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2 A I told Joe Royd to meet us at the LIRR.

3 Q So it was your idea?

4 A Yes. I picked to location I have to --

5 THE COURT: All right. She picked the
6 location.

7 MR. APPLEBY: It is because -- and because --

8 MR. QUAGLIATA: That is what we are interested
9 in.

10 MR. APPLEBY: You can ask any questions you
11 want, Mr. Quagliata.

12 Q After this meeting with this individual, did
13 you, yes or no, report this meeting to the police or any law
14 enforcement agency?

15 A I reported it to the reporters.

16 Q Did you report it to law enforcement authorities?

17 A I thought the reporters would take care of the
18 authorities. I was to the FBI and police and they said, the
19 police said they do not interfere with international union
20 matters and the police said they do not interfere with the
21 FBI.

22 Q Is it your testimony you didn't report any of
23 these meetings to the police or law enforcement authorities,
24 these meetings with this individual?

25 A I met one time.

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Q Did you report that meeting to any law enforcement authorities?

A I reported it to the reporters.

Q The answer is no.

You understand my questions, don't you? I asked you about law enforcement authorities and the answer is no. Is the answer no?

A What?

Q Is the answer no, that you did not report it to any law enforcement authorities?

A No.

Q Thank you.

MR. APPLEBY: May I just have one moment, your Honor?

Q Now, Mrs. Dinko, I would like to go into a different area at this time. I would like to direct your attention to 1971. At that time you owned two houses. Is that right?

A I owned two houses since 1969.

Q In 1971 did you own two houses?

A Yes, since 1969.

Q Those houses are 109-08 Firwood and 187-20 Brinkerhoff Avenue?

A Yes, sir.

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Q Directing your attention to 1971, did you get any rental income from those houses during the year 1971?

A Yes. Yes, I think in 1971.

Q You had boarders?

A No, I had tenants. If you want to call them boarders it's up to you.

Q Where were the tenants at Brinkerhoff or firwood?

A I rented in both houses. I rented part of my house at one time and --

Q I am talking about 1971.

A Going back to '71 I am not sure because I have been renting since 1969 or before. Maybe I had tenants in my house at the time.

Q Is it your best recollection you did have tenants in your house at Brinkerhoff, yes or no?

A I cannot recall now but maybe I did.

Q I am asking you do you have any recollection of it?

A I can't recall.

Q What about Firwood in '69, did you have rentals then?

A I believe I did in '71.

Q How many rentals did you have at that time?

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A I don't recall. I don't know what time you are referring to because I rent apartments furnished. Sometimes two girls rent it, sometimes three.

Q How many apartments do you rent in Firwood?

A It is a two family house but it is rented furnished. Each apartment is rented furnished.

(Continued on next page.)

P.Dinko-cross

Q How many different people rented at the Firwood Place in '71?

A I don't know.

Q What's the most that ever had?

A I don't have the records in front of me.

I cannot answer the question.

Q How many rooms do you have to lease out there?

A I don't know how I have the house rented.

I told you I don't recall.

Q Let's take today's date. How many tenants do you have there right now?

A I've got two tenants upstairs, now, today.

Q Right. Is that it?

A Yes.

Q Last year, do you recall how many tenants you had?

A I had three tenants upstairs and one family on the first floor and a tenant in my house at one time.

Q Let's go back another year. Did you have any other tenants?

A I don't recall.

Q Let's take the year 1976. What was the total amount of income that you received from your tenants at Firwood Place?

P. Dinko-cross

A At Firwood Place?

Q Yes.

A I don't recall. I would hate to give you a wrong figure.

Q Give us just an estimate.

A No, I wouldn't give you an estimate. I cannot do that. I cannot recall.

Q You have no recollection how much you took in in rental income in '76?

A No, because I had a problem with a tenant, and I don't remember.

Q Mrs. Dinko, is it closer to a million dollars, a hundred thousand dollars, ten thousand dollars? Give us your best estimate.

Q I will not give an estimate, because I don't want to be pinned down to a figure.

Q I'm not trying to pin you down. I'm trying to get a rough estimate how much you got from the Firwood Place in '76.

A O.K. --

MR. QUAGLIATA: I'll object to this. First of all, it's irrelevant. Second of all, she says she doesn't remember.

THE COURT: I'll allow it.

P.Dinko-cross

MR. QUAGLIATA: We're talking about '76.

THE COURT: That's last year.

MR. APPLEBY: Go ahead, Mrs. Dinko.

THE WITNESS: What was the question?

Q How much did you get in rental income for the year 1976 at the Firwood residence?

A Do you have a pencil, Mr. Appleby?

Q Yes.

A O.K. Let's figure it.

Q Here's a piece of paper. Here's a pen.

MR. QUAGLIATA: Do you want her to figure it out?

MR. APPLEBY: Yes, please.

A Give or take maybe \$5,000, maybe more.

Q Maybe more. What's the most it could be?

A I've had income there up to about \$10,000.

Q When was that?

A That was when I rented the upstairs, the downstairs, and the basement.

Q When was that?

A I don't recall what year. I rented all three, one, two, three.

Q All right, Mrs. Dinko. Again directing your attention to 1971, did you have any other income besides that

P.Dinko-cross

1

2

which you derived from those two houses? Yes or no.

3

A 1971?

4

Q Correct.

5

A Yes. I didn't have income, but I had other

6

money.

7

Q Tell us about the income first.

8

A I told you I had no income but I had other

9

money.

10

Q Let me ask you this: Did you work in 1971?

11

A No, but I had other money. I told you again.

12

Q Had you worked from 1969 through 1976, at

13

any time?

14

A From when? 1969 to 19 what?

15

A 1969 to 1977.

16

A Sometime, since you mention it, sometime in

17

'70 and '71 I had a foster kid in my house, so I had some

18

other income in '71 too, at one point.

19

Q I asked you if you were employed.

20

A I was being paid as a foster parent.

21

Q What year was that?

22

A '71 and '70

23

Q '70 and '71. What's the maximum that you

24

received as a foster parent in 1971?

25

A It was \$145 a month.

P.Dinko-cross

1
2 Q How many months did you receive that in 1971?

3 A I don't recall right now.

4 Q Do you recall whether you received it for the
5 whole year?

6 A What?

7 Q I said do you recall whether you received that
8 stipend the entire year.

9 A I don't.

10 Q Is it possible that you only received it through
11 March?

12 MR. QUAGLIATA: I'll object to this.

13 THE COURT: I'll allow it.

14 A Possibly. I don't know.

15 Q All right. Now, I asked you if you were
16 employed at any time from 1969 to 1977. Were you? Yes or
17 no.

18 A No.

19 Q O.K. Was Mr. Dinko, your husband, ever
20 employed in any capacity from 1969 to 1977?

21 A Does that include 1969? When you say "from,"
22 does that include 1969?

23 Q Let's talk from 1970 through 1977.

24 A In 1970 my husband was sick--

25 Q I'm asking, was he or was he not?

P.Dinko-cross

1
2 A He was receiving benefits from the shipping
3 company for being sick. You're asking me; I'm telling you
4 that he was sick.

5 Q The question is, from 1970 through 1977 was
6 Mr. Dinko ever employed. Yes or no.

7 A No, he was sick.

8 Q All right.

9 Now, in 1969 was Mr. Dinko employed?

10 A Yes.

11 Q What was he employed as?

12 A As a chief steward or maitre d'. Something
13 like that.

14 Q When did his employment as a chief steward
15 terminate in '69?

16 A I don't know. Maybe June, July. I'm not
17 sure.

18 Q Was he employed as a seaman in 1968?

19 A Yes, he was, I think. I'm pretty sure.

20 Q You don't know?

21 A I said I'm pretty sure.

22 Q Was he employed as a seaman in 1967?

23 A Yes.

24 Q Can you give us your best estimate as to what
25 Mr. Dinko made for '67, '68, and '69 as a seaman?

P.Dinko-cross

1
2 A I can't give you that. You'll have to ask
3 him that yourself.

4 Q Mrs.Dinko, do you have any idea how much
5 your husband made during those years?

6 A No, because I don't go through his pay stubs.
7 I have not privy to his pay checks--or was not. He is a
8 seaman. He gets paid at sea. I don't know how he gets
9 paid or when he gets paid.

10 Q Mrs. Dinko, you have tenants at these two
11 houses; is that right?

12 A Yes.

13 Q Who pays the electric bill? The heating bill,
14 the mortgages? You have mortgages on those homes, right?

15 A Yes.

16 Q Who pays all of those bills?

17 A According to the tenants that I have, some-
18 times the tenant pays the electric and gas--

19 Q No, wait a minute.

20 A I'm answering your question.

21 Q All right, go ahead.

22 A There are times that the tenant pays the gas
23 and electric in the one house and there are times they pay in
24 my house, according to whatever agreement I make. O.K.?

25 Q Mrs. Dinko, between yourself and Mr. Dinko, who

P.Dinko-cross

1

2

pays the bills in the family?

3

A I pay the bills.

4

Q All right.

5

6

7

8

9

Again directing your attention to 1971, other than the rental income that you received, which you said got to a maximum of \$10,000 for any of those years, other than the foster child stipend, did you have any other income in the 1970s?

10

A I won the lottery for \$4,000 one of those years.

11

12

Q What year did you receive those moneys from the lottery?

13

14

15

16

A I can't remember what year. The accountant is handling it. You're throwing years and months at me. I don't have the record. You're asking me something about five years ago.

17

18

Q You have no recollection when you received that lottery?

19

20

A I think we won it somewhere in '71 or '70. I can't say definitely.

21

22

23

24

25

Q Any other income in '71?

A In '71?

Q Yes.

A I brought money up from Trinidad. I brought my own money up from Trinidad in '71.

1

2

Q Is that where you grew up?

3

A Yes.

4

Q How much money did you bring up from Trinidad?

5

A I brought up about \$20,000.

6

Q How did you bring it? By check?

7

A No, I brought up the cash.

8

Q What kind of currency was it?

9

A American currency.

10

Q How did you bring it up? In a bag?

11

A I brought it up in my bag.

12

Q And who did you receive the \$20,000 from?

13

A I received it from my mother. My uncle had

14

left it for me.

15

Q Your uncle?

16

A Yes, he had died previous that year and left

17

it to me and she gave it to me--

18

Q Who gave it to you?

19

A My mother.

20

Q What's your uncle's name?

21

A Bhundan. I can't spell it. I can't remember

22

how to spell it right now, B-h-u-n-d-a-n.

23

Q He worked in Trinidad?

24

A He was a Hindu priest, what you call a

25

"s-a-r-d-u."

P.Dinko-cross

10

1

2

Q What was his job as Hindu priest?

3

A He married people. They have a Hindu ceremony

4

before the bride and groom is married they wash the bride,

5

bathe in saffron. They go through a two-week ceremony.

6

They would give donations and different things like that.

7

Q To your knowledge, where did your uncle keep

8

the money?

9

A I don't know.

10

Q You have no idea?

11

A No.

12

Q When did you receive that \$20,000?

13

A I was in Trinidad. I think April or towards

14

May -- it was April of '71. I came back in June of '71 with

15

the two children, my two big kids and at that time I brought

16

the money up.

17

Q You have \$20,000 in cash. What do you do with

18

it?

19

A What I do with it? I held the money; Andy

20

stayed back in Trinidad for a while, and when he came home--

21

Q What did you do with the \$20,000?

22

A I held it.

23

Q Held it where?

24

A In the house.

25

Q Where in the house?

11

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P.Dinko-cross

A In the house, in my pocketbook, in the house.

Q You don't recall where you put it in the house?

A No -- if I have a hiding place in the house should I reveal?

Q You don't want to reveal?

A O.K., I hid it underneath the closet.

Q Did you put any of that money in the bank?

A Yes, I did put it in the bank-- joint with Andy.

Q What bank?

A Several banks.

Q Which banks?

A I don't recall all the banks right now, but we didn't put all the money in one bank. I put it in several banks.

Q Did you take all the \$20,000 and put it in these banks?

A Yes, at different times. I took parts. I didn't go out with \$20,000 in my hand and put it in the bank; I took \$2,000 or \$3,000 and put it in the bank.

Q Did there come a time when you put all \$20,000 in the bank?

A Eventually all the money was in the bank,

12

P.Dinko-cross

1
2 together with money that Andy also had of his own.

3 Q How long did it take you to put this entire
4 \$20,000 in the bank? When did that end?

5 A Probably three months, I think I started to
6 put the money in around September because he said, "Don't
7 keep the money in the house," and he was fussing, and he
8 said, "Put the money in the bank eventually."

9 Q So your best recollection is September of
10 1971?

11 A I believe that's close enough, I think.

12 Q And in September of 1971, you put all of the
13 money in various banks; is that right?

14 A I didn't say in September. I said in
15 September I began putting it into the bank. It maybe took
16 me about three months or so, I'm not sure.

17 Q It makes it would be to what month in 1971?

18 A I said maybe December, could have been after.

19 Q How much did you put in the bank in September
20 or in the beginning?

21 A I don't remember. I think I started an
22 account with \$2,000 or \$3,000. I was shifting the money
23 because I was befuddled and everything with the money.

24 Q You were befuddled?

25 A Yes, because \$20,000 -- Andy didn't want me to

1
2 put it in a bank in New York because he had a corporation,
3 because I wanted the money with his name in it if anything
4 happened to me, and he was the beneficiary on my will -- it
5 was just one of those things -- it created confusion. I had
6 to go out of state because of the problem he was having with
7 his corporation with his brothers.

8 Q You put the money out of state?

9 A Yes.

10 Q When did you do that?

11 A I told you, in '71.

12 Q How many different banks did you put this
13 money into?

14 A Maybe three or four, maybe five. I don't
15 recall.

16 Q Well--

17 A It could be ten, because it could be \$2,000 in
18 each one.

19 Q It could be ten banks?

20 A I don't know. I don't recall.

21 Q What makes you say ten?

22 A I said I put maybe \$2,000 or \$3,000 in a bank,
23 I said \$2,000 or \$3,000 divided by how much money we had,
24 which was \$20,000, and Andy had some of his own money. By
25 the time we got finished maybe it was more than five banks.

1

2

Q You think it's a possibility of ten banks?

3

A Maybe, maybe not. It may be more than five.

4

Q You said that Andy had some money.

5

A He had some money of his own.

6

Q Where did Andy get some money?

7

A He had money when I married him. I married him in '67, and he was working all his life. He had money.

9

Q He had savings from his employment?

10

A I believe so.

11

Q Are you aware that Mr. Dinko only made a

12

couple of thousand dollars in '67, '68, and '69?

13

MR. QUAGLIATA: I will object to this.

14

THE COURT: I would say it's going off to a

15

collateral issue at this point.

16

Q Now, Mrs. Dinko, could you tell us why you

17

put the money in all these different banks? What was the

18

reason for that?

19

A Well, I just didn't want all the money in one

20

bank.

21

Q I know that. I'm asking you why now.

22

A I don't like banks and I don't believe in

23

banks and I feel if the bank should fall or something

24

should happen, if two fall, I still got some in another one.

25

Q You feel the banks might fold?

P.Dinko-cross

1
2 A Yes, I don't trust banks. Still don't trust
3 them.

4 MR. APPLEBY: May I have one moment, please,
5 your Honor.

6 (Pause)

7 Q Mrs. Dinko, do you remember taking a little
8 trip at the end of December 1971--

9 A Bank trip?

10 A A bank trip.

11 A Explain that.

12 Q Did you go down to Philadelphia, Pittsburgh,
13 and start depositing in banks in different places--

14 THE COURT: You mean money in different banks
15 in different places.

16 Q Did you start depositing cash?

17 A I told you that I did that from September,
18 if I recall correctly.

19 Q I'm asking you if you remember a little trip
20 that you took.

21 A I went somewhere and I wanted to deposit money
22 in a bank that I liked for one reason or another , although
23 I distrusted the banks, I used that bank.

24 Q Do you recall going down to Pittsburgh, to the
25 Mellon Bank?

MR. QUAGLIATA: I object to this. I can't see the relevance.

THE COURT: I'll allow it.

MR. QUAGLIATA: What year are we talking about?

MR. APPLEBY: 1971.

Q Do you recall going to Pittsburgh?

A Andy's brother lives in Ford City, Pennsylvania, which is north of Pittsburgh--

Q In late 1971 do you recall going to Pittsburgh?

THE COURT: She went to Pittsburgh.

Q Do you recall going to the Mellon Bank?

A Yes.

Q Do you recall depositing some money there?

A Yes.

Q Remember that was cash, right?

A I told you that I was depositing cash.

Q Was that about \$2,000 or so?

A I'm not sure; you have the records.

Q Is it possible?

A I'm not sure.

Q Is it possible?

A I don't recall.

Q You have no recollection?

A No.

Q Let's talk about another little trip--

MR. QUAGLIATA: I'm going to the preface.

THE COURT: Yes.

Q Let's talk about December 15, 1971. Did you have an account in Washington Savings Bank in Hoboken?

A Yes.

Q Do you remember depositing on that date, December 15, \$2700 in cash?

A Maybe I did.

Q Is it possible?

A I'm not sure; maybe I did.

Q O.K. Do you remember on that very same date going to the Garden State National Bank also in New Jersey and depositing \$2500 in cash?

A Maybe I did.

Q Then do you remember traveling on to the Gerard Bank in Philadelphia and depositing \$3,000 in cash?

A Yes, because Andy was beaten up, and we decided that money should not be in the house.

MR. APPLEBY: I move to strike the answer.

THE COURT: Strike it out. The answer is yes.

Q Do you remember on December 28, 1971, in Philadelphia, depositing another \$3,000 in cash?

A I don't recall.

1

2

Q Is it possible?

3

A I don't recall.

4

Q Then again-- This is going back a little bit.

5

November 21, '71, depositing another \$2,000 in cash to

6

the Marine Midland Bank?

7

A I don't recall.

8

Q Is it possible?

9

A I told you that I made deposits from September

10

into December. If the bank says that, maybe that it is, but

11

I don't recall. I don't know for sure what I put in what

12

bank and I said that before.

13

Q Don't you also have an account at the Chase

14

Manhattan Bank in Trinidad?

15

A Chase Manhattan?

16

Q Yes.

17

A I had that account--

18

Q I just asked you if you had an account.

19

A Yes.

20

Q What about the Barclay's Bank at John F.

21

Kennedy Airport?

22

A That's my mother's account.

23

Q Who opened that account, Mrs. Dinko?

24

A I opened it for my mother.

25

Q Do you remember when you opened it?

2

A In '71.

3

Q And your mother wasn't in the country?

4

A They gave me power of attorney to open an

5

account in her name.

6

Q Do you remember December 16, 1971 depositing

7

\$3,000 in cash?

8

A Where?

9

Q I'm srrry. Strike that. That is incorrect.

10

Do you remember by the end of 1971 depositing

11

a grand total of \$3,355 in that account?

12

A That's very possible, but I don't recall.

13

Q These are all cash deposits--

14

A Yes, because I brought \$20,000 in cash.

15

MR. APPLEBY: Please--

16

THE COURT: The answer is yes, and strike the

17

balance.

18

Q Isn't it possible that you have accounts, or

19

had accounts in 1971 in a total of twelve banks? Is that

20

possible?

21

A I don't know; I don't recall.

22

Q Is it possible?

23

A I said before it was possible that it was more

24

than five banks, it could be ten; I don't recall how many.

25

MR. APPLEBY: One moment, again, please.

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Q Mrs. Dinko, in 1971 what's your best recollection how much income you had in that year?

A I don't recall. I told you that before.

Q Please give us your best estimate.

A I told you that I don't recall.

THE COURT: That's her best answer.

Q Let's talk about 1972.

A I don't recall.

Q 1973.

A Don't recall.

Q '74?

A Don't recall.

Q '75?

A I was looking at the tax return. I don't recall.

Q You were looking at what tax return?

A Mine.

Q For 1975?

A Yes, mine.

Q Did you file a tax return--

A My accountant is handling and he does have a tax return for '75. My accountant is handling it.

Q Did you file a tax return for '75?

A I assume my accountant has filed a tax return.

He has been speaking to Mr. Eastwood on something on the return.

Q For '69, '70, '71, '72, '73, '74, '75, and '76, have you ever filed a tax return?

A Yes, I did.

Q For what year?

A For many of those years.

Q Are you sure about that?

A Yes.

Q No question?

A No question.

Q Do you remember signing the returns?

A I signed the returns and in '74 the IRS says they're no returns. I can't fight with the government. I can't say if they do or they don't, so I'm refiling returns. That's all I can do.

Q What about your husband? To your knowledge, did he ever file a tax return for '69 through '76?

A I don't know. I do not file joint with my husband. I don't know what he does with his return. I have never filed joint with my husband-- never.

Q Mrs. Dinko, are you telling us that you have no idea whether or not your husband filed a tax return for those years?

1
2 MR. APPLEBY: I have no further questions.

3 REDIRECT EXAMINATION

4 BY MR. QUAGLIATA:

5 Q Mrs. Dinko, the money that you took in from
6 Trinidad--

7 A Yes.

8 Q --do you know whether or not it was illegal
9 for you to take the money at the time?

10 A It was legal.

11 Q It was legal?

12 A Yes.

13 MR. APPLEBY: Has she become a lawyer?

14 MR. QUAGLIATA: You prove it's not legal;
15 you can testify.

16 MR. APPLEBY: I object to the examination of
17 the witness.

18 THE COURT: That's the purpose--

19 Q To your knowledge, did you do anything wrong
20 in bringing the money from Trinidad to the United States?

21 A No.

22 Q When you put the money in the bank, was there
23 anything illegal about that?

24 A No, sir.

25 Q Any of the money that you put in the bank

1
2 from '69 to the present time come from any drug traffic?

3 A No.

4 Q What kind of car did you drive in 1973?

5 A '63 Chevy and still driving '63 Chevy.

6 Q Tell us how much money you have in the banks
7 right now?

8 A Zero.

9 Q Do you have a mortgage on the house or more
10 than one mortgage on the house on Fernwood?

11 A Yes.

12 Q And Brinkerhoff?

13 A Yes.

14 Q How much money did you make in drug dealings
15 from 1970 to the present day?

16 A Zero.

17 MR. APPLEBY: I'll object to the shouting.

18 I don't think it's necessary.

19 THE COURT: It's his witness.

20 Q Now, you were asked whether or not you went
21 to the police on a number of occasions; is that right?

22 A Yes.

23 Q Was there conversation when you spoke to the
24 reporters about going to the police?

25 A Yes.

1

2

Q Just yes or no.

3

A There was conversation, yes.

4

MR. QUAGLIATA: I have no further questions.

5

MR. APPLEBY: No redirect.

6

THE COURT: You may step down. Thank you.

7

MR. QUAGLIATA: I have two witnesses. I wish
I could get them on tonight. I don't know if I can
get them tomorrow.

9

10

THE COURT: I don't know how long they will be.

11

At five o'clock I have a Board of Judges meeting.

12

MR. QUAGLIATA: May I have one witness?

13

THE COURT: If it's too long. This is our
last meeting of the year and we must all be present.

14

15

Ask them if they can come back tomorrow. Put
them on at ten o'clock, first thing in the morning.

16

17

MR. QUAGLIATA: Mr. London.

18

THE COURT: He may be longer than you think.

19

MR. QUAGLIATA: I don't think so.

20

MR. APPLEBY: I intend to cross-examine Mr.

21

London.

22

MR. QUAGLIATA: If we could just get him on
and the Court may order him to be on tomorrow.

23

24

THE COURT: We can finish him tomorrow. Can
you be here at ten o'clock in the morning?

25

A 192

GOVERNMENT SUMMATION

A 193

670

portions?

THE COURT: No. He can't anticipate what he will say in rebuttal. I usually give ten minutes for rebuttal, tops.

MR. APPLEBY: Does your Honor intend to charge that was my next question.

THE COURT: Surely. It's going to the jury tonight. I have the other case tomorrow.

(Jury present)

THE COURT: Now we're ready to proceed.

The Government will now sum up to you.

MR. APPLEBY: Mr. Quagliata, Mr. Manning, your Honor, defendants, and ladies and gentlemen of the jury:

First of all I would like to say what this case is not about. This case is not about the National Maritime Union. This case is not about parking tickets. This case is not about whether Mrs. Dinko was black and Mr. Dinko is white or whether she is blue and he is green. It has nothing to do with the case.

This case is about the evidence, the evidence that came from that stand. That's the only thing that this case is about. The only issue that this case concerns is whether the Dinkos

6 1 trafficked in heroin from September 1971 to September
2 1973.

3 Now, because Charlie Johnson is the first
4 witness, I would like to talk about him first. Let's
5 get down to the nitty-gritty right away.

6 What does the defense say about Charlie John-
7 son? Basically, what the defense says is that
8 Charlie Johnson got up on that stand and told you
9 bald faced, outright, unmitigated lies. That, in
10 effect, he was attempting to seduce you into making
11 one of the most unjust verdicts that could possibly
12 be made.

13 What, in effect, the defense will tell you,
14 and has implied already, is that Charlie Johnson
15 never even came close to the truth in this case.

16 Now, that's one of the issues in this case.
17 Is Charlie Johnson telling the truth or is he lying?
18 That's one of the crucial determinations that you
19 will have to make when you go into the jury room.

20 Now, the task that you have, while it is
21 difficult in the sense that it's difficult in any
22 criminal case for the jury to deliberate; it's
23 actually quite simple.

24 Really, what you're called upon to do is to
25 decide whether the witnesses for the Government,

Appleby-summation

Charlie Johnson, for example, has been telling the truth, or whether the defendants have been telling the truth.

Patricia Dinko. The task, as I said, while it is difficult, is not mysterious. It's not unique. It's not impossible. It's not unsurmountable, because every day, ladies and gentlemen, you have to come to important decisions in your life. You have to decide whether something is reasonable or whether something is unreasonable.

When you make those decisions, you have to trust your good instincts. You have to trust your common sense, and your everyday experience. That's what you will have to rely upon, when you go into that jury room in a little while.

So keeping those broad precepts in mind, let's take a look at Charlie Johnson. Let's take a look at his testimony. See if we can analyze his testimony and come to a determination as to whether he is telling the truth or whether he is not telling the truth.

Now, you heard about Charlie Johnson's life. To put it mildly, Charlie Johnson has not led a virtuous life. Basically, his entire life has been

1
2 involved with crime. He has been acquitted of two
3 serious narcotics violations involving heroin. He
4 has been arrested for other less serious matters.
5 He has been a criminal.

6 You may ask yourselves, while you deliberate,
7 "Can I depend on my verdict, on a person such as
8 Charlie Johnson, who has led such a non-virtuous
9 life, who is, in fact, a criminal?"

10 When you consider that question, ladies and
11 gentlemen, I would ask you to ask yourselves what
12 type of case are we talking about here? Are we
13 talking about an esoteric subject, the origin of
14 lost planets, Renaissance art in the 19th Century?

15 No. We are talking about a heroin conspiracy,
16 heroin dealers, dope. And when you consider that
17 fact, ask yourselves who is in the best position to
18 tell you about the inner workings of a heroin con-
19 spiracy? Is it good, decent, hard-working people,
20 mothers and fathers? Priests? Rabbis? No. They
21 can't tell you anything about the inner workings
22 of a heroin conspiracy.

23 I suggest that when you reflect upon that
24 question, who is in the best position to tell you
25 about a heroin conspiracy, the answer will be a

1
2 heroin dealer, a person involved in the conspiracy,
3 and that's exactly what Charlie Johnson is. He's
4 a heroin dealer.

5 Now, the defense carries the argument one
6 step further. They say, "Well, Charlie Johnson is
7 looking for leniency in this case. He made a deal
8 with the Government. The Government, after his
9 cooperation has been completed, is going to write
10 a letter to the Governor. We'll ask that he sus-
11 pend whatever the rest of his time is in federal
12 custody." They say he is looking for leniency,
13 and I say, ladies and gentlemen, that's absolutely
14 correct.

15 Charlie Johnson is looking for leniency. He
16 was convicted of a heroin deal -- the one-eighth
17 kilogram that occurred on September 21, 1973.
18 Fifteen years to life he got. He was right up against
19 it. He wasn't to meet the Parole Board for fifteen
20 years. He was stuck between a rock and a hard wall.

21 So he was right up against it. What did he
22 do? He had only one way out at that point if he was
23 going to lessen his prison term. He was -- he
24 decided to cooperate for his own self interest and
25 for no other reason, and tell who else he was involved

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with in the narcotics traffic. So let there be no mistake about it, ladies and gentlemen: Charlie Johnson got up on that stand for one reason and one reason only: to get leniency, to save his skin.

But the defense carries it one step further, ladies and gentlemen. They say that because Charlie Johnson had this deal with the government, in which he hopes to get leniency, as a result of all that, the Government will write to the Governor, because of that he was willing to get up on the stand in this court, take an oath, look you straight in the eye, and implicate innocent people in a crime that they never committed.

That's a gross implication, ladies and gentlemen, and it's entitled to be weighed by you in determining the crucial issue of Charlie Johnson's credibility.

I suggest that that argument, that the deal with the Government makes a motive for Charlie Johnson to implicate innocent people, is a false argument, and a false distinction.

I say, ladies and gentlemen, yes, Charlie Johnson has a motive to testify in this case. As I said, he is trying to save his skin, but the deal

1
2 or the agreement that he has with the Government does
3 not give him a motive to testify falsely and impli-
4 cate innocent people. It gives him a motive to
5 testify truthfully and tell about the people who he
6 was involved with in the narcotics trade.

7 Now, why do I say that?

8 First of all, as I said, Charlie Johnson wants
9 a letter from us, he wants us to write a letter to
10 the Governor asking leniency for him so his prison
11 time can be reduced.

12 Incidentally, neither we nor Charlie Johnson
13 have any idea what the Governor will do after the
14 letter is written--

15 MR. QUAGLIATA: I object to this. There was
16 testimony as to what would happen.

17 THE COURT: As to leniency?

18 MR. APPLEBY: Yes.

19 Charlie Johnson knows before he gets up on
20 the stand that a courtroom is a two-sided affair.
21 He knows that when he gets on the stand, after his
22 direct examination, he is going to be subjected to
23 searching cross-examination by experienced counsel
24 on cross-examination.

25 What's the purpose of cross-examination?

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2 It's to prove that he is a liar. Charlie Johnson
3 knows that. He knows that every statement that he
4 makes is going to be tested for the falsity or the
5 truthfulness of that statement.

6 Now, what should happen if Charlie Johnson
7 should implicate an innocent person in the heroin
8 conspiracy that he was involved with, as opposed to
9 the real people he was involved with?

10 He knows that Mr. Quagliata on cross-
11 examination could prove that he is a liar. He knows
12 that Mr. Quagliata can call witnesses and prove
13 that he is a liar and prove that Charlie Johnson
14 wasn't anywhere near the Dinkos on the dates that
15 he says he bought heroin from the Dinkos.

16 MR. QUAGLIATA: I object to this. This is
17 highly improper as to what Johnson knows.

18 MR. APPLEBY: I'm talking about his motiva-
19 tion.

20 THE COURT: It's comment.

21 MR. APPLEBY: So how is it going to help
22 Charlie Johnson, knowing that his statements can
23 be proven to be false, to get up on the stand and
24 implicate innocent people?

25 What should happen if he is proven to be a
liar? Does Charlie Johnson really expect the Govern-

1
2 ment to write a letter to the Governor when he is
3 proven to be a liar on cross-examination? Does he
4 expect us to write a letter saying that Charlie
5 Johnson was a cooperative guy when Mr. Quagliata
6 proves that Charlie Johnson never bought heroin from
7 the Dinkos?

8 So Charlie Johnson only stands to lose by
9 lying, ladies and gentlemen.

10 He is happy with his deal. It's the only
11 deal that he could have made. He wants to make
12 absolutely certain that he holds to the truth
13 one hundred percent or else he gets no letter to the
14 Governor. That's his only chance, and he wants to
15 make absolutely certain that every statement that
16 he makes is true.

17 Now, he made a deal with the Government.
18 I don't know whether you like the deal or you don't
19 like the deal, but I say, ladies and gentlemen, it's
20 totally irrelevant to this case. It's not an issue
21 in this case, whether you like the fact that we made
22 a deal or you don't. Because, ladies and gentlemen,
23 a person like Charlie Johnson's whole life has been
24 a life of crime. Everything he did in his life was
25 according to his own self interest.

1 Charlie Johnson has to have a reason in
2 terms of his own self interest to do anything. He
3 is not about to get on the stand because he is a
4 good guy and he believes that he wants to rid the
5 world of narcotics dealers because he thinks that's
6 the moral thing to do. He has got to have a reason.
7 He's got to have a motivation, and the deal that he
8 had with the Government gave him the motivation to
9 do it.
10

11 The deal that we had with Charlie Johnson
12 is what cracked this case. It enabled us to get to
13 the bottom of it.

14 All right. Other than the fact, ladies and
15 gentlemen, that if Charlie Johnson testifies falsely
16 it's only going to hurt him in terms of his deal,
17 there is another crucial issue that we must talk
18 about. That is, what motive has been established,
19 from the beginning of this trial to the end, to show,
20 to demonstrate why Charlie Johnson would get up on
21 this stand, take an oath, and implicate Mr. and
22 Mrs. Dinko if they were not in fact the people that
23 he received heroin from?

24 I suggest, ladies and gentlemen, you can
25 scour that record, and there is not this much

1
2 evidence, not a scintilla of evidence, as to what
3 motive Charlie Johnson would have for implicating
4 innocent people as opposed to the real people that
5 he dealt with.

6 I suggest, ladies and gentlemen, that the
7 reason that you heard of no motive is because there
8 is no motive. The reason there has been no motive
9 established is because Charlie Johnson did deal in
10 heroin with Mr. and Mrs. Dinko.

11 You know, if Mr. Quagliata, for example--

12 MR. QUAGLIATA: Can we keep personalities out
13 of this?

14 THE COURT: I don't think it's proper to
15 address the jury by stating what the other lawyer
16 says.

17 MR. APPLEBY: If the defense, for example, ladies
18 and gentlemen, were able to show that there was some
19 kind of an affair between Charlie Johnson and Patricia
20 Dinko, or anything of that sort, then I would say
21 to you that might be a motive, that might be a reason
22 for your hesitating in terms of Charlie Johnson's
23 testimony. Maybe he was jilted. Maybe Mr. and
24 Mrs. Dinko stole money from him, or something like
25 that. But there has been nothing of the sort shown.

2 That might establish motive. There has been nothing
3 shown. Nothing whatsoever.

4 You know Charlie Johnson was not involved
5 in narcotics by himself. He wasn't getting heroin
6 out of the clear blue sky--

7 MR. QUAGLIATA: Judge, I'm going to object.

8 THE COURT: Yes, I will sustain that.

9 MR. QUAGLIATA: He has to stick to the record,
10 Judge.

11 MR. APPLEBY: On what basis?

12 THE COURT: It's not a fact in the case at
13 this point.

14 MR. APPLEBY: Ladies and gentlemen, Charlie
15 Johnson was not involved in the narcotics business
16 by himself. He was involved with other people,
17 obviously. You can't deal in heroin by yourself.
18 So why is Charlie Johnson going to get on the
19 stand and implicate innocent people as opposed to
20 the real people that he was dealing in heroin with?

21 You know, I can understand your hestiation
22 if, for example, Charles Johnson said, "Look, I had
23 nothing to do with heroin"--

24 MR. QUAGLIATA: Your Honor, I think possibly
25 we might make it clear that what Mr. Appleby understands

1
2 and what Mr. Appleby thinks is not part of the record.

3 THE COURT: They know that; they know the
4 argument of attorneys is not part of the case.

5 MR. APPLEBY: I could understand if he got
6 on the stand and said, "I'm not involved in heroin,
7 but I will tell you who is involved: Andy and
8 Patricia Dinko." Then I can understand your saying
9 that is a little suspicious. That's not what he said.

10 Charlie Johnson said, "I'm involved in the
11 narcotics traffic, and I'm going to tell you who
12 else I was involved with."

13 Let's talk about the cross-examination by
14 Mr. Quagliata.

15 What is cross-examination supposed to prove?
16 Basically, cross-examination in our system of justice
17 is a device at getting at the truth, proving a
18 witness is a liar.

19 I suggest, ladies and gentlemen, that on
20 cross-examination by Mr. Quagliata you heard abso-
21 lutely nothing to contradict, to impeach Charlie
22 Johnson's testimony.

23 I say that after his crossexamination, his
24 testimony stood absolutely exactly the way it stood
25 on direct examination. Mr. Quagliata had nothing to

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work with in this case--

MR. QUAGLIATA: Judge, I will object to this.

MR. APPLEBY: I'm talking about the cross-examination.

MR. QUAGLIATA: Could we get down to the record, please, Judge.

THE COURT: It's not a question of whether or not he had anything to work with. It's a question of what the facts showed. It has nothing to do with the method used by the lawyer in proceeding with his case.

MR. APPLEBY: I have no intention of going into personalities. I suggest if they had anything to impeach Charlie Johnson, Mr. Quagliata is a skillful attorney, he would have proven it to you. He would have chipped at his testimony and shown it to you.

MR. QUAGLIATA: Could we stick to the record?

MR. APPLEBY: I would suggest that Mr. Quagliata is interrupting for the sake of interruption. There was a very interesting phenomenon that occurred.

Every time Charlie Johnson says, "I'm involved in narcotics traffic," the defense is willing to believe him. Every time he says, "I have got convictions

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18 1
2 for heroin dealing." Every time he says something
3 bad about himself, the defense is willing to
4 believe him, but then all of a sudden when Charlie
5 Johnson starts talking about who else was involved
6 with him, then the defense goes -- at that point
7 we cut you off. At that point Charlie Johnson
8 becomes a liar --

9 MR. QUAGLIATA: I really don't want to inter-
10 rupt. Could we stick to the record, rather than
11 what we thought about certain things? We have to
12 stick to the record.

13 THE COURT: Stick to what his testimony
14 showed on cross-examination and direct examination,
15 rather than what someone believes.

16 MR. APPLEBY: I believe I am.

17 THE COURT: What a lawyer believes is com-
18 pletely immaterial. It's what you people give to
19 the facts in the case.

20 MR. APPLEBY: Another thing, ladies and
21 gentlemen, observe Charlie Johnson's demeanor. Did
22 he seem like he was trying to be candid with you or
23 trying to be evasive with you? Consider his cross-
24 examination. Mr. Quagliata asked many questions.
25 He answered yes, no. He didn't give evasive answers.

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Contrast that to Mrs. Dinko. She shifted, she was evasive, yes, no; furthermore, ladies and gentlemen, you could tell when you saw Charlie Johnson's instantaneous responses there was no question as far as Charlie Johnson was concerned.

I further suggest, ladies and gentlemen, that Charlie Johnson, even if he wanted to, could not keep a complicated series of events such as he testified to, straight, if he wanted to lie. I don't think he was capable of it.

MR. QUAGLIATA: Judge--

MR. APPLEBY: How else may we determine whether Charlie Johnson was telling the truth or whether he has been lying?

One of the important ways that we can get at that crucial determination is by looking at the other evidence that the Government has produced in this case. Has the other evidence that the Government produced in this case -- has it corroborated Charlie Johnson or has it not corroborated Charlie Johnson? Has it added to his testimony or has it detracted from his testimony? Has it proven him to be a liar or has it shown that he has been telling you the truth to the best of his recollection?

1
2 First of all take the tape, November 27,
3 between Segar and Boyd.

4 First of all, ladies and gentlemen, there is
5 no question about it, that tape is about narcotics.
6 Agent Segar is not interested -- is not a salesman --

7 MR. QUAGLIATA: Judge, I will respectfully
8 object -- I'm sorry. I really am sorry. I'm sorry,
9 Mr. Appleby. Please forgive me.

10 THE COURT: Go ahead. No question that in
11 that conversation they are talking narcotics.

12 MR. APPLEBY: Agent Segar is a narcotics detective
13 investigating narcotics. He is talking narcotics
14 with Joe Boyd. You can tell from the whole flavor
15 of the conversation. No news practically.

16 Agent Segar is looking to make a meeting --
17 was trying to meet the supplier of heroin for Joe
18 Boyd. That's the purpose of his call.

19 He asks Joe Boyd for the supplier's
20 telephone number and he is very clever in getting
21 the telephone of Joe Boyd's supplier.

22 Incidentally, when he talks about his man, it's
23 his supplier. It's not his supplier of Champion
24 spark plugs, but Joe Boyd's supplier of heroin.

25 What telephone number does Joe Boyd give to

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21 1 Segar? 454-4338. Of all the telephone numbers
2 in the New York City telephone directory, what
3 telephone number does Joe Boyd give to Segar?
4 The Dinkos'. At their residence. 187-20 Brinkerhoff
5 Avenue.
6

7 Does he give him a non-existent number, or
8 the number of the New York Public Library? No.

9 Again, ladies and gentlemen, we-- does that
10 tape -- does the fact that Joe Boyd gave the telephone
11 number of the Dinkos -- does that add or detract
12 from Charlie Johnson's testimony? Does that
13 indicate to you that he was trying to tell you the
14 truth or that he was lying through his teeth?

15 Then on November 27, after Segar asked to
16 meet the supplier, in that telephone conversation on
17 that very same day, who does Segar meet? Pat
18 Dinko. Segar meets Pat Dinko after asking Boyd to
19 meet his supplier. True beyond any question what-
20 soever. Segar testified to it and Dworsak testified
21 to it.

22 Does that indicate to you that Charlie Johnson
23 has been telling you the truth or that he has been
24 lying? Does it add to his testimony or detract from
25 his testimony?

1 Consider the banks that Pat Dinko had.
2
3 Twelve different banks, carrying amounts of money
4 in many different states. Does that indicate to
5 you that Charlie Johnson was telling you the truth
6 on the stand?

7 On each occasion, ladies and gentlemen, that
8 the agents meet either Boyd or Johnson, and they ask --
9 they want to do a heroin deal.

10 Boyd and Johnson say, "I have to go to my man,
11 my supplier."

12 Where do they go? Do they go to Gracie Mansion?
13 No. They go to 187-20 Brinkerhoff Avenue. That's
14 where they go.

15 Again, the fact that they go to the Dinkos'
16 residence and that is true beyond any question. Does
17 that indicate to you that Charlie Jones has been
18 telling you the truth?

19 There are many statements made by CoCo and
20 Joe Boyd with respect to their suppliers, "My man
21 is running for election. My man owns the houses on
22 Brinkerhoff Avenue," the Dinkos. They made the
23 statements, not knowing that the agents were under-
24 cover agents.

25 Does that indicate to you that Charlie Johnson

1
2 was telling you the truth?

3 On April 6th, when Segar meets Boyd for the
first time, Boyd said, "I have to go to my man's
house to get the heroin," and he puts a note in the
6 mail box.

7 What mail box does he go to?

8 He goes to this mail box right here on this
9 door, at 167-20 Brinkerhoff Avenue.

10 On April 13, the agents start early in the
11 morning, start looking for Boyd's suppliers.

12 Boyd says, "I have to go to my people."
13 He puts a note in this very same mail box.

14 What does the note say?

15 It says, "The people from out of town are
16 here about the stuff."

17 What stuff are they talking about? Oranges?
18 Mattresses? "Stuff" is heroin.

19 He put that note right here in the mail box,
20 the Dinkos' residence.

21 Does that indicate to you that Charlie Johnson
22 has been telling you the truth? Does it corroborate
23 it, or does it detract from his testimony?

24 You know, it's interesting on April 13 the
25 agents are looking to buy heroin. They started out

1
2 early in the morning; they wait many, many hours
3 with Boyd and Johnson. Boyd goes up to the Dinkos
4 residence many, many times, and no one is home.

5 Finally, at seven p.m., after seven hours,
6 the deal goes down.

7 What, incidentally, happens at the seventh
8 hour? At that moment Andrew and Patricia Dinko
9 arrive at their residence. They go into the house
10 and all of a sudden, boom. The deal goes down. The
11 deal doesn't go down for seven hours; all of a
12 sudden Pat and Andy Dinko go into the residence and
13 Charlie Johnson and Boyd go into the residence and
14 the deal goes down.

15 Does that indicate to you that Charlie Johnson
16 was telling you the truth or lying?

17 Analyze the testimony of Segar and Dorothy John-
18 son. Their testimony corroborates the testimony of
19 Charlie Johnson. The same time. The same amount
20 of money. The same amount of heroin. It's totally
21 corroborated.

22 The Dinkos have nothing to do with heroin
23 traffic, but every time a sale goes down, people are
24 going in and out of their house.

25 September 21. That's the date that the

1 kilogram went down. Charlie Johnson told you about
2 that deal. \$2,000 fronted first, goes into the house,
3 comes back out. The heroin is exchanged, given to
4 the agents, \$2500 given to Johnson, goes back into
5 the house and gives it to the Dinkos.
6

7 That's what Segar and Dorothy Johnson testi-
8 fied to. It's totally corroborated. The same place.
9 The same time. Same amount of heroin; same amount
10 of cash. Everything is corroborated.

11 Remember there was surveillance on each of
12 those occasions. On each of those occasions Charlie
13 Johnson is surveilled just prior to the deal going
14 into Dinkos' house, Joe Boyd is also surveilled
15 going into the Dinkos' house.

16 Again, is Charlie Johnson lying through his
17 teeth or is he telling us the truth?

18 Remember, Charlie Johnson said that the Dinkos
19 were worried about the police. That is on September
20 21. Pat Dinko, you remember, went outside the
21 residence and started to walk around the block. Andy
22 Dinko also came out of the house and went to a car
23 where the agents were, and lifted up the hood.

24 Pat Dinko then goes back into the house.
25 She meets Charlie Johnson right outside 187-20 Brink-

erhoff Avenue. They have a conversation and then they both go back into the residence.

Charles Johnson comes out into the residence and delivers the one-eighth kilogram of heroin.

What do you think they were talking about? Do you think they were passing the time of day or that eighth of a kilogram of heroin?

Again, is Charlie Johnson lying through his teeth when he says that the Dinkos are heroin traffickers?

Do we consider this evidence, the surveillance, the testimony of Dorothy Johnson and Henry Segar?

On November 14, Charlie Johnson testified that he met the agents and the agents were looking to do a one kilogram deal. This occurred at Charlie Johnson's girlfriend's house. They had a meeting there.

Charlie Johnson says, "I'll take you to my people." He goes to the Dinkos. He tells the Dinkos "I'm getting bad vibes." He doesn't like something about Segar. He is flashy. There is nothing that he doesn't like. Patricia says she's going to check it out.

Segar, Charlie Johnson said he came back with

1
2 Pat Dinko. He went into the house. Pat Dinko went
3 into the house. What did Segar say? He identified
4 Patricia Dinko as being in that house on that very
5 same day.

6 Is Charlie Johnson leveling with us? Does
7 that add to his testimony or detract from his
8 testimony?

9 Consider November 27 meeting between Agent
10 Segar and Patricia Dinko. No question that Segar
11 met with Patricia Dinko on that day. What is
12 Pat Dinko talking to an undercover agent of the
13 Drug Enforcement Administration about?

14 Is she by coincidence coming in from Ronkon-
15 koma, or went there to talk about a narcotics deal?
16 Who happens to be there walking his dog three miles
17 from his home? Mr. Dinko.

18 Do you think Mr. Dinko was surprised at seeing
19 his wife meeting with Henry Segar on that date? Was
20 it just a coincidence that Andy Dinko was there?

21 Again do you think Charlie Johnson has been
22 lying or telling the truth when we consider the fact
23 that Segar went with Patricia Dinko and Pat Dinko
24 agreed to sell him a kilogram of heroin for \$37,000?

25 Finally, ladies and gentlemen, we have Pat

1
2 Dinko's testimony, her incredible testimony, which
3 I'll get to in a moment.

4 I say Pat Dinko's testimony further corrobor-
5 ates Charlie Johnson, and I'll get to that in a moment,
6 as I said.

7 So, taking all that evidence together, ladies
8 and gentlemen, all the corroboration, the surveillances,
9 the undercover meeting, the phone call -- does it
10 make you think that Charlie Johnson has been telling
11 you the truth or does it make you think he has been
12 lying?

13 By contrast let's take Jack Dworsak -- Police
14 Officer Jack Dworsak, and Dorothy Johnson.

15 Jack Dworsak and Dorothy Johnson have abso-
16 lutely no interest in this case. This is what I mean,
17 ladies and gentlemen, by motivation.

18 Jack Dworsak and Dorothy Johnson are not making
19 more money whether there is a conviction here or an
20 acquittal. Their testimony does not depend on whether
21 they are going to go to jail or not, as does
22 Patricia Dinko's.

23 (Continued on the next page)

2 So let's talk about Dorothy Johnson and Jack
3 Dworsak. Are they both lying? Is Dorothy Johnson
4 lying and Jack Dworsak telling the truth? Or is Jack
5 Dworsak lying and Dorothy Johnson telling the truth?
6 Are they both lying? Is everybody lying in this case?
7 Is ten percent of the Government witnesses lying?
8 Ten percent of their testimony true? Is everybody
9 lying except Patricia Dinko?

10 What's their motivation to lie? Is there a
11 motivation to lie? They are law enforcement officers.
12 There is no lack of narcotic cases in New York City,
13 ladies and gentlemen. New York is teaming with narcotics.
14 What reason does Jack Dworsak and Dorothy Johnson have
15 for implicating two people in a serious crime if in
16 fact they had nothing to do with.

17 I mean, is the Drug Enforcement Administration
18 -- is it going to go out of business because two
19 narcotic dealers are not convicted? Does their job
20 depend on whether Andrew and Pat Dinko are going to
21 be convicted? Is there some superior saying to them,
22 now, you Dorothy Johnson, Jack Dworsak, you go out and
23 get a conviction. We don't care whether they are
24 innocent or not, but we want a conviction.

25 That's not what happened.

Dorothy Johnson said that she was with Segar on April 13th, and April 26th, on September 21st. Is she lying or is she telling the truth?

She was with Segar, that crooked agent who couldn't tell you the truth whether his life depended on it.

Now, Dorothy Johnson, on those dates, was she in Wisconsin? Was she in California? Or was she where she said she was? At the Dinko residence, receiving heroin from Charlie Johnson.

And if she was where she said she was, who was she with? Was she with the Queen of England, the Czar of Iran, was she with Henry Segar? And if she was with Henry Segar, what was she doing there? She was investigating a narcotics case. Obviously, ladies and gentlemen, there's no question about it.

Jack Dworsak: He said he observed Patricia Dinko and Andrew Dinko arrive at their residence on April 13th. Incidentally, Patricia Dinko disputes that testimony. Did he see them or didn't he see them? Was he on duty that day or wasn't he on duty? Was he playing Golf? Or was he where he said he was? And what motivation does Jack Dworsak have for saying that Patricia Dinko arrived and Andrew Dinko arrived

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at their residence at 7 P.M. when in fact they didn't?
What reason does he have to say that?

I suggest there is no reason.

Is all their testimony just more unmitigated lies
intended to promote a miscarriage of justice in this
case?

You know, if Dorothy Johnson and Jack Dworsak
were such unmitigated liars, they sure could have done
a better job of it. If they were such liars and so
intent on convicting the Dinko's at any price, couldn't
Dorothy Johnson have said, I saw Andrew and Pat Dinko
hand--actually hand the package to Charlie Johnson.

If Jack Dworsak was such an unmitigated liar
and was lying about everything, why didn't he say,
when he was testifying about the November 14th meeting
where Patricia Dinko comes to show Segar, why didn't
he say, I saw Patricia Dinko go to that house. He
didn't say that because he didn't get a good look at
her. He didn't say that because he couldn't testify
to it truthfully. He got a real deal of her. His view
was obstructed. But if he was such an unmitigated
liar, he could have said, I saw Patricia Dinko go
in there. No question about it.

In conclusion, ladies and gentlemen, about

1 Dworsak and Johnson, I suggest to you that they have
2 been telling you the truth right up and down the line.
3 And I suggest that Mr. Quagliata in his summation will
4 utterly fail to establish a reason and an understandable
5 motivation as to why those two individuals would implicate
6 the Dinkos in a serious crime if in fact they were
7 not involved. And I say, ladies and gentlemen, that
8 if you believe that Dorothy Johnson and Jack Dworsak
9 were telling the truth, then you must believe Henry
10 Segar. Because that's to be the big obstacle that the
11 defense has in this case. It's no way that they can
12 get around it. If Dworsak and Johnson are telling
13 the truth, then Segar is telling the truth. Because
14 Johnson and Dworsak corroborate Segar completely.
15

16 But maybe the defense will say, Oh, don't get
17 sucked in by these subtle deductions and logic of
18 the prosecution, because you see that liar, Segar,
19 that unmitigated liar, when he wasn't in Dorothy
20 Johnson's presence, when he wasn't anywhere near her,
21 he rubbed his hands and he said, now, I'm free of that
22 Dorothy Johnson. Now is my chance to really sink
23 Patricia Dinko. I know she's innocent, but I'm
24 going to really get her. I'm going to testify with
25 her that is going to convict her and no jury will ever

disbelieve me.

All of a sudden when Henry Segar left Dorothy Johnson's presence, all of a sudden a great transformation took place. All of a sudden Henry Segar flamed out of control. He became a Dr. Jekyll and Mr. Hyde.

Because, ladies and gentlemen, the defense has to argue that Henry Segar was lying to you about his negotiations with Patricia Dinko.

Now, you're trying to determine the truth here. You're trying to determine credibility. You're trying to use your common sense and use your every day experience. You've got to ask yourselves, why -- why, all of a sudden, is this transformation taking place in Henry Segar? Why, all of a sudden, when he leaves Dorothy Johnson's presence is he going to flame out of control and all of a sudden become an unmitigated liar?

What's the defense position here? That Henry Segar couldn't tell the truth about any fact whatsoever; that everything -- two hundred -- all two hundred cases of his are total lies; that he couldn't tell the truth no matter what.

Is Henry Segar paid by the head? Does he get an extra thousand dollars for convicting an Andrew and

1
2 Patricia Dinko, just like Patricia Dinko and Andrew
3 Dinko got extra money for selling an eighth of a kilo-
4 gram of heroin.

5 MR. QUAGLIATA: I am going to object.

6 THE COURT: Well --

7 MR. QUAGLIATA: Judge, could we stick to the
8 minutes, to the record in this case?

9 THE COURT: The comment is outside the scope of
10 the testimony itself, and whether or not they get any-
11 thing out of it is removed from the facts of the case.

12 All right, disregard the statement.

13 MR. APPLEBY: Ladies and gentlemen, why is
14 Henry Segar going to lie about the Dinkos? Why are
15 the Dinkos the object of his wrath? What reason is
16 there for it?

17 And I suggest as much as they will huff and puff
18 and struggle, they will be able to suggest no reason
19 as to why he would lie about the Dinkos. There is no
20 reason for suggestion because Andrew and Pat Dinko were
21 trying to enrich themselves through their narcotics
22 sales.

23 Now, ladies and gentlemen, I would like to talk
24 to you now for just a few moments about the dismissal
25 of Henry Segar. Is everything that Henry Segar says

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untrue? Should everything be thrown out the window?
Let's take a look at his dismissal. Let's analyze it.
This is one of the determinations you will have to
make.

First, he was dismissed. No question about it.
You heard about it two minutes after he took the stand
on direct examination.

Secondly, we've got to ask ourselves, does his
dismissal have anything to do with this investigation
directly or indirectly?

And I suggest, ladies and gentlemen, that
the answer to that is an unequivocal, no. It has nothing
to do with it.

Thirdly, Henry Segar was cross-examined with
respect to the reports that he filed after he conducted
the meetings that he had in this case. Those reports
were written either the same day or the day after the
events occurred. He prepared those notes prior to the
incident which led to this -- which led to his dismissal.
So there was no opportunity or no reason for Henry Segar
to make up the report about the Dinkos, about his
investigation, about his meeting with Patricia Dinko
based on the facts of his dismissal.

Fourth, the case that led to his dismissal in-

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2 involved his testimony in the Grand Jury, his failure--
3 I think it was to report a material fact. Now, Henry
4 Segar made his identification in the Grand Jury not
5 based on the person by sight or by photograph. He
6 made his identification based on the name, based upon
7 all the other evidence in the case.

8 MR. QUAGLIATA: I am going to object to this
9 respectfully.

10 THE COURT: Yes, sustained.

11 MR. APPLEBY: It is in therecord.

12 THE COURT: I know. But the comments of what
13 he did before the Grand Jury is not really an issue
14 in this case. The only issue in the case is whether
15 or not the dismissal is something that he believed
16 his testimony was given in the case. Not whether he was
17 justified in his answers in the Grand Jury, whether he
18 was asked or not asked.

19 MR. APPLEBY: All I am saying is he made the
20 identification based on the other evidence in the case.

21 THE COURT: I sustained that.

22 MR. APPLEBY: Ladies and gentlemen, Henry Segar
23 did not identify an innocent person. That person
24 pleaded guilty. We heard about it.

25 MR. QUAGLIATA: Object to that.

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2 THE COURT: Yes.

3 MR. APPLEBY: Your Honor --

4 THE COURT: That is not the --

5 MR. QUAGLIATA: Now we are going into an area
6 where bad faith --

7 THE COURT: The attack was on the testimony
8 as to whether or not he did believe the testimony and
9 whether he did give the testimony, that was a collateral
10 statement and was not be determined. And whether he
11 gave proper testimony before a Grand Jury, that is
12 not the jury's function. Disregard it. It is not
13 their function at all.

14 All right.

15 MR. APPLEBY: Ladies and gentlemen, he lost his
16 job -- Segar did -- because he refused in a Court of
17 law to identify a defendant on trial. That's what
18 led to his dismissal.

19 MR. QUAGLIATA: Judge, I am going to object.

20 THE COURT: Sustained likewise.

21 MR. APPLEBY: I am not allowed to --

22 THE COURT: That is not at all the testimony--
23 that he refused. He said that he wasn't able to
24 identify him. That's totally different from his refusal.
25 There was the question of the administrative part.

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2 That is, for the administrator who dismissed him.

3 Nothing to do with you people. Nothing at all.

4 . We are not trying Segar's dismissal.

5 All right.

6 MR. APPLEBY: All I am trying to say, ladies
7 and gentlemen, is that now when Henry Segar is no longer
8 with the Government, when it means nothing to him, Andrew
9 and Patricia Dinko mean nothing to him, he identified
10 Patricia Dinko. When his job depended on it, he refused--
11 excuse me -- he could not identify a person in Court
12 and said that he couldn't identify that person in Court.
13 He had every motivation to keep his job then and to
14 lie and to say that he could identify that defendant
15 in Court.

16 MR. QUAGLIATA: Judge - --

17 MR. APPLEBY: Now, he's got absolutely no motivat-
18 ion at this stage of the game. None whatsoever. Again,
19 when you evaluate Segar's testimony, you have got to
20 evaluate it in light of all of the evidence in the
21 case. I am not going to go through each item again.
22 But evaluate Segar's testimony in terms of Charlie
23 Johnson's testimony, in terms of the tape recording,
24 in terms of Dorothy Johnson's testimony, in terms of
25 all of the banks that Patricia Dinko used, in terms of

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all of the surveillance, in terms of Jack Dworsak's surveillance of him in -- on November 27th, and you will see that Henry Segar has been telling you the truth in this case one hundred percent.

(continued next page)

2 You know, if he was so intent in implicating
3 an innocent person in this case -- innocent people,
4 on November 2nd he could have dragged the old man in.
5 He could have dragged Andy Dinko in and said, I saw
6 Andy Dinko and I talked to Andy Dinko. He didn't
7 say that.

8 MR. QUAGLIATA: I think he's taking undue
9 advantage --

10 MR. APPLEBY: Mr. Quagliata is interrupting
11 me solely for the purpose of interrupting.

12 MR. QUAGLIATA: No. You know me better than
13 that.

14 THE COURT: The objections have been well taken.
15 I have said so to the jury.

16 MR. APPLEBY: All right.

17 Ladies and gentlemen, I would like to talk
18 with you for a few moments about the defense case here.
19 Patricia Dinko says she heard two narcotic traffickers
20 were going to be ripped off, who she believed were
21 from the NMU, who she was not afraid of, even though
22 her husband was shot by a member from the NMU, and
23 even though supposedly -- and even at that point
24 she goes down to the radio reporters and tells the
25 radio reporters that it could be people from the NMU,

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2 or agents, or narcotic dealers. And she sets up a
3 meeting. First an indefinite meeting and then a
4 definite meeting. Then she goes down to meet this
5 person who she doesn't know on the first indefinite
6 meeting. As to the second definite meeting, she
7 goes without protection, without any reporters, not
8 knowing possibly if the guy is a narcotics dealer,
9 even though she can't speak narcotics at all. I say
10 that's nonsense, ladies and gentlemen. And I say
11 it's double-talk. I say it's like saying the moon
12 is made out of green cheese because as it comes in
13 congruence with the floor and as it's going by the
14 desk -- I mean that's how silly her testimony is.
15 Let's take her testimony item by item.

16 Item: She knows Boyd is involved in narcotics.
17 Now, she's trying to explain the unexplainable.
18 She's trying to get out from under her case. She's
19 throwing anything she can at you. She's double-
20 talking.

21 She knows Boyd is involved in narcotics. She
22 asks Boyd, can you introduce me to the people you are
23 involved with in narcotics.

24 Boyd doesn't ask her why. No reason.

25 Boyd says, okay, I'll introduce you to the

people I am involved with in narcotics.

Isn't that the strangest conversation you ever heard in your life, ladies and gentlemen? Again, trying to explain the unexplainable.

Item: Patricia Dinko says that she keeps all her money in twelve different banks and in four different states. Why does she say that? She says, because I don't trust the banks. They are not solvent.

Didn't Mrs. Dinko hear of the FDIC? Did she think the Federal Government is going to fall down also?

I suggest, ladies and gentlemen, that Patricia Dinko acted with respect to those banks just like an ordinary narcotics trafficker trying to hide the proceeds of her narcotics sales. She didn't know that the bank -- that the Government knew about all those twelve banks, just like she didn't know she was dealing with Henry Segar on November 27th.

One thing is clear, ladies and gentlemen. Patricia Dinko didn't put that money in those different banks because she felt that the banks were going to fold. She -- the reason, ladies and gentlemen, is obvious. Because she didn't want the

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2 narcotics officers to find out where she was stashing
3 the money that was the proceeds of her narcotics
4 sales.

5 MR. QUAGLIATA: I object to this. I think we
6 should talk about what we have proved.

7 THE COURT: He's talking about drawing
8 inferences. He may do it.

9 MR. APPLEBY: Patricia Dinko says that she
10 never discussed her finances with her husband, never
11 discussed income taxes with her husband, never
12 discussed it from '68, '69 through 1976. Don't you
13 think that when April 15th came around it would have
14 been logical for Patricia Dinko, who is sophisticated
15 enough to put large sums of money in different states
16 in different banks, don't you think they might have
17 a discussion about the inadvisability of filing a
18 joint tax return? No. She didn't talk to her husband
19 at all, she says. And I suggest the reason, ladies
20 and gentlemen, is not because she didn't know about
21 the wisdom of filing a joint tax return, because she
22 didn't even get that far. Because they had no --
23 absolutely no intention of ever filing a tax return.

24 MR. QUAGLIATA: Judge --

25 MR. APPLEBY: Because you have to report --

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2 you can't report narcotics proceeds in a tax return.

3 THE COURT: Hold it.

4 MR. QUAGLIATA: Judge, I think we should get
5 to the issues in the case, most respectfully.

6 THE COURT: No. He may argue. He's drawing
7 an inference.

8 MR. APPLEBY: Next item: Patricia Dinko says
9 this: she was so suspicious about these two individuals
10 who were -- who were to be ripped off by Coco Files
11 and Charlie Johnson -- why? Because a woman was on
12 the street with \$40,000. What about the fact that
13 Patricia Dinko heard about -- heard that it was a
14 man and woman at the very beginning from Nick Burgess?
15 What is so suspicious about a narcotics dealer with
16 \$40,000 looking to spend?

17 And here is something interesting. She was
18 so suspicious about this woman with \$40,000 -- do
19 you remember Patricia Dinko's testimony? She said
20 she brought up \$20,000 in cash from Trinidad. She
21 said she would be -- she says she even carried \$20,000
22 in cash. That's why she was suspicious. By her own
23 carrying up \$20,000 from Trinidad, these are things
24 at contradiction in her testimony.

25 (continued next page)

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2 MR. APPLEBY: (Cont'd.) Item, Patricia Dinko
3 says that she believed that the National Maritime
4 Union were out to get her somehow, some way, by
5 purchasing narcotics from her campaign workers.

6 Now, ladies and gentlemen, you have to use
7 your common sense and your everyday experience
8 right here. Why is the NMU, who supposedly is
9 ruthless enough to take a potshot at Andrew Dinko
10 and try to kill him, why, if they were willing to do
11 that, are they going to go around -- go in this
12 long convoluted way to implicate the Dinkos and set
13 them up?

14 I mean, rather, if they were out to get Andrew
15 Dinko, there are very easy ways to do it. You just
16 take a gun and you put a bullet through the
17 person's head. Why do they have to go through these
18 shenanigans, these complications involving some
19 people?

20 Just doesn't make sense. It doesn't hold
21 water.

22 Andrew Dinko is at the RR station November 27th,
23 just could have shot him right there if Andrew
24 Dinko were such a threat to the organization.

25 Oh, and a small item, ladies and gentlemen,

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2 Andrew Dinko lost the election. How did he lose
3 the election? By a landslide. The election was
4 over. So, why is the NMU, National Maritime Union
5 going to go through these convolutions to get Andrew
6 Dinko? It is absurd.

7 Item, supposedly Patricia Dinko is paranoid
8 and scared about the National Maritime Union.

9 THE COURT: You have five minutes.

10 MR. APPLEBY: She thinks they're trying to
11 harass here.

12 THE COURT: You have five minutes.

13 MR. APPLEBY: She's afraid that the National
14 Maritime Union is out to get her. And this is her
15 big opportunity when she finds out about it. She
16 goes to the radio station and she has this big plan,
17 this big opportunity. They have this plan where
18 she's supposed to call the reporters who will be
19 wired up so they could get to the bottom of this.

20 And how does Patricia Dinko who brings -- who
21 is able to bring \$20,000 in cash skillfully in a
22 sophisticated manner into the United States and then
23 deposit it in various banks, how does she seize
24 this opportunity? How does she use the plan? Does
25 she call the reporters?

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When she gets the call from Boyd and remember, ladies and gentlemen, keep in mind she's the one who set the place and the time for that meeting. She was in total control. And bearing that in mind, ladies and gentlemen, whom does she go with to that meeting? Does she go with three reporters? Two reporters? A single reporter? A single neutral person who could corroborate her story? No. Not one.

Oh, she goes with someone. She goes with her husband. Andrew Dinko, who just coincidentally, ladies and gentlemen, happens to be her partner in the narcotics business.

MR. QUAGLIATA: I object to this, if the Court pleases.

THE COURT: Well, that's -- he's talking about the charge in the indictment. That's all.

All right.

MR. APPLEBY: Ladies and gentlemen, Patricia Dinko went because she just couldn't pass up the opportunity, to turn down a narcotics deal. Her greed was so great that she couldn't pass up an opportunity despite the fact that she thought there might be federal agents involved.

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2 Her greed was so great that she couldn't
3 stop herself from going. She goes -- she thought
4 she had the perfect crime, ladies and gentlemen. She
5 thought she had it all figured out. She goes to the
6 reporters and incidentally remember that Charlie
7 Johnson told her that he had bad vibes about these
8 people, Segar and Johnson.

9 You'll remember that Patricia Dinko was
10 suspicious. You'll remember the 21st they started
11 to go around the block because they were suspicious.
12 But she thinks she has the perfect crime. She
13 thinks if she goes to the radio station before
14 meeting these people, she can cover herself because
15 if the deal goes down, or if the deal doesn't go
16 down, and it turns out to be a federal narcotics
17 agent, she's covered. If the deal does go down
18 she makes money.

19 She thought she had it all figured out. She
20 goes up to Segar and says: Mr. Segar, if you're a
21 federal narcotics agent, forget about it. I have a
22 way out because I've gone to the radio station. And
23 you can't get me. I've got the perfect alibi. And
24 if you're not a federal narcotics agent, Mr. Segar or
25 Mr. Ware, or whoever you are, then we've got a good

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2 little thing going. I enrich myself. And you get
3 your heroin.

4 The reporters, I suggest, ladies and gentlemen,
5 that the reporters in this case were duped. They
6 were taken advantage of by the Dinkos. They were
7 manipulated by the Dinkos. Just as Patricia Dinko
8 attempted to manipulate you in her testimony.

9 And if you read between the lines you'll
10 know why the reporters wanted two of their own to
11 have body recorders, because they weren't so sure
12 about the Dinkos themselves.

13 Item, her story is that Segar lied. That is
14 what the defense's position is. Now, why did Segar
15 lie? Is he in cahoots with the National Maritime
16 Union, is that their position? If that is their
17 position, ladies and gentlemen, I suggest there is
18 not one scintilla of evidence in this record, nothing,
19 to suggest that there is any kind of alignment
20 between Henry Segar and the National Maritime Union.

21 And if there is no evidence of it and if it
22 is not a conspiracy between Segar and the National
23 Maritime Union, again then what is the defense's
24 theory? Then why did Henry Segar lie, what motivation
25 did he have for lying about his conversations with

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Patricia Dinko?

I mean, their theory is inconsistent and I suggest what we had in this case, ladies and gentlemen, was a little of this, a little of that, by the defense, a little smoke here, a little red herring here.

Doesn't make quite -- doesn't make sense quite well, doesn't quite hold together, but we're trying, we're struggling. We'll throw anything at you, because we're trying to create a little doubt, where no doubt exists.

And they're saying, please, we tried hard. It doesn't quite come together. Doesn't quite hold water. Under analysis. But, please, give us a break because we have created a little doubt, don't you think?

MR. QUAGLIATA: Judge, I'm going to object to this. I have no intention of doing that and I don't think -- I don't think we should anticipate what I am going to say.

THE COURT: Well, that is true. You shouldn't anticipate. You have time for rebuttal. That is when you answer.

MR. APPLEBY: Ladies and gentlemen, there is

no doubt in this case, none whatsoever, despite the struggling of the defense.

Having nothing to do with the National Maritime Union, having nothing to do with the radio station and incidentally, ladies and gentlemen, Patricia Dinko didn't want what she talked about with Henry Segar to be broadcast over the radio station.

This has nothing to do with the National Maritime Union. What Patricia Dinko was trying to do was to figure out if Henry Segar was a good outlet for her heroin. That is what she was doing and there is no doubt about it.

There is no doubt about the fact that Patricia Dinko and Andrew Dinko were engaged in the trafficking of heroin for profit. So that Patricia Dinko could put oodles of more money in 20 more banks in ten more states.

I suggest, ladies and gentlemen, that based upon the evidence, not based on insinuations, not based upon guesses, nothing but bedrock hard evidence, the Government has proved the guilt of Patricia and Andrew Dinko guilty beyond a reasonable doubt whatsoever.

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DEFENSE SUMMATION

THE COURT: All right.

MR. QUAGLIATA: Judge Costantino, Mr. Manning, Mr. Appleby, Mr. foreman, ladies and gentlemen of the jury:

It is now about eleven minutes after four. At 4:20 I will be concluded. You heard the case. You heard the evidence of the different witnesses. I'm not going to go by day after day. You remember it as well as any of us remember it. You heard the witnesses.

You have an idea of who is lying, the reasons for the different testimony in this case. It's obvious to you. I know it and I'm going to take exactly nine minutes of your time.

Number one, this is not a contest. It's not a question of who is a better attorney. It's not a question of who is sharper. It's not a question of who dances better, who does a better tango or the tap dance. This is not that.

This is a trial that has to do with the guilt or the innocence of people charged with extremely serious charges, not a contest. I'm not here to show you how smart I am, because if I were smart I would have destroyed Johnson on the stand and I didn't.

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It's no contest.

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We are not playing a game here. I'll tell you a few things. I appreciate the way you've paid attention. I have a lot of confidence in what your verdict will be. If anything that I have done throughout the course of these proceedings hit somebody on this jury the wrong way hold it against me. Don't hold it against my client.

Just decide the case on the record as you've heard it. I'm not going to tell you why each and every point, each and every point that was mentioned to you is illogical, because you can do that for yourselves.

We leave out the part that she calls him up on the 28th and tells him it's going to be tonight or tomorrow night. That doesn't exist, and like a million other things didn't exist in this case, we took upon ourselves the responsibility of bringing certain facts to your attention.

We had to do nothing. We didn't have to produce one witness, but we did it. And we did it as best we could and I tell you that if I surveilled any one of you people over a six or seven or eight month period and I got somebody like Johnson to come in here, he

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2 could manipulate his story, if he was around you at
3 that period of time with no problem because he had
4 no problem making the deal that he did. And you would
5 be helpless to defend yourself when you are arrested
6 a couple of years later.

7 Think about it. Just think about it, the
8 awesome problems that you have and I think we did
9 well because certain things were documented like going
10 to the radio station, like reporting to those people
11 for a period of six or seven months, like trying to
12 make contact with Senator McCullen.

13 This is nothing new. They didn't call up a
14 radio station overnight. They had been dealing with
15 these people and I submit to you that they had good
16 reasons for dealing with these people and they had good
17 reasons to distrust the authorities, and whether you
18 believe it or not, they were never narcotics dealers
19 and that's what this case is about

20 Whether or not these people are narcotics
21 dealers, pure and simple. It's not a contest. It's
22 not a game. It's not a question of who the better
23 entertainer is. We are here to determine something.
24 You are going to make one of the most important decisions
25 of your life. That's what we are here for.

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2 To think that somebody, only a trial lawyer
3 can tell you that she -- that she took a shot with the
4 man by going to the radio station when the people
5 were going to wire themselves that night or the next
6 night whenever it was and a drug transaction that
7 she's involved in is on tape.

8 It's absolutely ridiculous. It's nonsensical,
9 ridiculous. There are other things that are ridiculous.
10 I'll go with you right now and I submit to you that this
11 is true, to a penitentiary. Give me 25 people that are
12 facing 15 years to life, I'll give you 24 that will
13 testify agaisnt somebody, that will be willing to
14 testify against somebody if they were given the deal
15 in this case and willing to implicate anybody because
16 a drug dealer is scum; scum, the lowest form of life
17 on the earth. They will give up their mothers, their
18 fathers, their sisters, their brothers, and five
19 generations back and six generations forward. They are
20 scum.

21 Is it incredible to you? Here is a guy that made
22 a deal without a lawyer. I couldn't do this well for
23 any client in a million years. He makes a deal without
24 a lawyer, to commute his sentence, the U.S. Government
25 writes to the State of New York -- absolutely incredible.

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2 You can go to Sing Sing or one of the
3 penitentiaries upstate, 15 to life prisoners. They
4 will testify against President Nixon, President
5 Johnson, President Lincoln, President Grant, President --
6 anybody that they think will help them; 15 to life.
7 You don't hit the parole board for 15 years.

8 Now he expects to hit the street soon. What do
9 you think you are dealing with, a barge? He's a
10 drug dealer. He's scum. You will never hear me say
11 in this courtroom or any other courtroom, acquit
12 them. They may be drug dealers but after all,
13 we want a break. Drug dealers are scum; they don't
14 deserve breaks. The law isn't strict enough to sentence
15 a drug dealer; 15 to life isn't enough. It should be
16 15 to five lives.

17 That's not the defense here. I told you in the
18 beginning, ladies and gentlemen, the defense is that
19 these people are innocent. We'll try to prove it to
20 you. We don't have a responsibility but we will try
21 to prove it to you.

22 She tells you that she -- she can account for
23 her time on April 13 with a ticket in the union hall.
24 Does anybody come in here and say it's not true? She
25 tells you on November 14 when she's supposed to be

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2 with someone else, she's in the Labor Department --
3 U.S. Labor Department.

4 And anybody tell you it's not true? 26 Federal
5 Plaza, Labor Department. This is so ridiculous.
6 It's absolutely incredible. Did those three people,
7 those reporters get on the stand to lie to you here?
8 Like they're shielding the Dinkos, or do we try that first
9 and ask Patricia Dinko, do you know them, do you go
10 out socially, do you have drinks with them?

11 And then when that fails say, they are using
12 him. Where are we going with this case? Do we try
13 to just piece everything together? After a six
14 or seven or eight or ten month investigation, arrest
15 people four years later and then say account for every
16 minute of your time?

17 Nobody on this jury could do it. Nobody.
18 Every minute of your time, 1971 to 1974 -- you can
19 account for every minute of your day? No, you'll be
20 an old vaudeville skit, the guy is under the lamp.
21 Where were you on September 1, September 21, 1973?
22 It's absurd. But we took upon ourselves the responsi-
23 bility of presenting certain facts and we presented
24 them to you.

25 Don't acquit them because we want a break. We

don't want any breaks. Acquit them because they are innocent. Acquit them because the people have failed miserably in this case to prove their guilt beyond a reasonable doubt.

That's the reason you acquit them. Acquit them because you took an oath, and to be true to your oath in this case you must acquit them.

Go a reason to lie? Of course he's got a reason to lie. Another guy gets on the stand, a dismissed agent and they now say the Government dismissed him in one place they were wrong, because here they are right. He should have been -- where are we going with this case? The Government dismissed him because they had reason to dismiss him, and he should be dismissed, period.

We are not dealing with games and charades. People that failed to tell Grand Juries that they can't make an identification and they do make an identification and they do make an identification? Where is this nonsense?

He says six other people are liars? Absolutely absurd. There is a tradition in this Courthouse, and the tradition is, you don't convict people on the likes of dismissed agents and Charlie Johnsons.

Quagliata-summation

MR. APPLEBY: I object to that your Honor.

That's not -- I think Mr. Quagliata is --

THE COURT: You can convict if there has been proof beyond a reasonable doubt. Failure to do so, as I told you many times, you must acquit.

MR. APPLEBY: Where is the tradition in the Courthouse, your Honor?

THE COURT: No tradition.

MR. QUAGLIATA: You don't find people guilty on the word of scum. That's a tradition, an American tradition. Liars, cheats, drug peddlers, the tradition an American tradition -- this Courthouse and every Courthouse in this country -- person is presumed innocent except when somebody like Charlie Johnson points a finger at you and then you are supposed to be guilty and after a four year period you piece everything together and this can be looked at this way and this can be looked at this way. This is guilt beyond a reasonable doubt?

I'm sorry. I went over my time. We have confidence in you. You heard the facts. I'm not going to go through everything point for point. If you have any question the reporter will read it back.

Thank you very much for your attention.

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GOVERNMENT REBUTTAL SUMMATION

Quagliata-summation

THE COURT: You may rebut. Limit it to

the statements he made.

MR. APPLEBY: Ladies and gentlemen, I'm not going to shout at you and I'm not going to try to intimidate you into a conviction. That's not why I'm here.

I'm here to reason with you, and analyzing the issues and I suggest that what you just heard was a total failure to even look at the issues, to analyze the issues.

Why? Because Mr. Quagliata -- the defense had absolutely nothing to work with, and so he's got to get up here and shout at you.

MR. QUAGLIATA: Mr. Quagliata is not on trial.

THE COURT: Sustained. Bad comment.

MR. APPLEBY: I understand.

THE COURT: Bad comment.

MR. APPLEBY: There are -- just a few points, ladies and gentlemen. April 13, he said there is nobody to tell you -- Mr. Quagliata said that Patricia Dinko said that she was in Harlem and nobody can contradict her.

Jack Dvorsak contradicted her. Charlie Johnson contradicts her. Dorothy Johnson contradicts her.

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2 Henry Segar contradicts her and the ounce of heroin
3 that was introduced into evidence contradicts her.

4 With the date April 13, 1973 -- you can look
5 at it. Mr. Quagliata seems to take issue with the
6 number of years that have elapsed since the events
7 in question. It's no mystery about that, ladies
8 and gentlemen. You heard about it from Charlie Johnson.
9 Charlie Johnson started to cooperate on April 1, 1976.
10 This indictment was returned promptly on June of 1976.
11 The true facts in this case, the inner workings
12 of this conspiracy did not emerge until Charlie Johnson
13 started to cooperate on April 1, 1976.

14 That's when there was a prosecutable case.
15 That's when we had a strong case. That's when we brought
16 the case against Andrew Dinko and Patricia --

17 MR. QUAGLIATA: I object to a strong case.

18 THE COURT: Yes, true.

19 MR. APPLEBY: I suggest despite the fact
20 that Mr. Quagliata said scum about five times
21 and liar about ten times he's totally failed to analyze
22 the issue in the case.

23 Why of all the 8,000,000 people in New York City
24 is Charlie Johnson going to say, Andrew and Patricia
25 Dinko are the people that received heroin from?

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2 A total failure to even analyze that and grapple
3 with that issue.

4 Why, because there is no answer, because
5 Charlie Johnson did deal with Andrew and Patricia
6 Dinko. There was a mention of the dates, how Charlie
7 Johnson is able to remember the dates.

8 Charlie -- you'll recall at the beginning of
9 Charlie Johnson's testimony, he testified to
10 approximate times. Approximately in this month.
11 Approximately in that month but when it came down to
12 April 13 and April 26, and November 17, September 21,
13 he remembered the dates specifically, because that
14 was his case. That was the case he was prosecuted for.

15 And you'll recall when I asked him questions on
16 my direct examination, I said Mr. Johnson, directing
17 your attention to November 27, 1973 or directing your
18 attention to September 21, 1973 -- I supplied the
19 dates to him. He knew the approximate dates because
20 it was his case. He didn't know the exact dates but
21 he knew what happened.

22 Ladies and gentlemen, I think I've covered all
23 the points that Mr. Quagliata made in his very meager
24 summation and it wasn't meager because Mr. Quagliata is
25 not a skillful attorney. It was meager because he had

nothing to work with in this case. The evidence is --

MR. QUAGLIATA: If the Court pleases.

THE COURT: Yes. You are overstepping
rebuttal.

MR. APPLEBY: Ladies and gentlemen, again,
based upon the evidence, not because of shouting, not
because of insinuation, not because of some fantasized
conspiracy with the National Maritime Union but based
upon the evidence and for that reason and that reason
alone, we ask you to return a verdict of guilty as to
Andrew and Patricia Dinko.

THE COURT: Would you want a five minute recess
before I charge you?

Okay. Take a five minute recess.

(The following occurred in the absence of the jury)

THE COURT: For the record, any motions upon
which the Court has reserved decision during the trial
prior to charging the jury are hereby denied.

(recess taken)

(continued on next page)

* * *

A 255

CHARGE

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* * *

A 356

(Whereupon, the jury entered the 729
courtroom.)

THE COURT: All right. Now, this is the final stage of the proceedings in the courtroom and I'll charge you one of the rules that will be applied to the facts of the case. And as sort of a general part of the charge now you must remember that the arguments of the lawyers to the jury in summing up or in opening are not evidence in this case. As I have told you previously, however, you have the right to waive those arguments as you see fit and discuss them, but never discuss them as pieces of evidence that have come before you. The only evidence in the case will be the evidence of the witnesses who testified and any material that has been marked as an exhibit in the case.

In addition to that, I just remind you once again that you are the judges of the facts and it's your prerogative to determine what the facts and what weight you shall give those facts as they come before you.

And, once again, of course, you know, I am the judge of the law and you must accept what I say is the law.

Now, the Court will now charge you on the body

Charge of the Court

of the case itself and the law to be applied, and I will now read the indictment to you.

Count One of the indictment reads:

On or about and between September, 1971 and February, 1974, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the Defendants Andrew Dinko, also known as "Kelly", and Patricia Dinko, also known as "Patricia Mushington", Joseph Boyd, and Raymond Files, also known as "Leroy Files", also known as "Coco", together with others known and unknown to the Grand Jury, did knowingly and intentionally combine, conspire, confederate and agree to violate Section 841-A-1 of Title 21, United States Code.

It was part of such conspiracy that the defendants and co-conspirators would knowingly and intentionally distribute and possess with intent to distribute quantities of heroin, a Schedule 1 narcotic drug controlled substance.

And 2: It was further part of such conspiracy that the defendants and co-conspirators would conceal the existence of the conspiracy and would take steps designed to prevent disclosure of their activities.

And this is under Title 21, United States Code

Section 846.

Count Two:

On or about the 21st day of September, 1973, within the Eastern District of New York, the Defendant Andrew Dinko, also known as "Kelly", and Patricia Dinko, also known as "Patricia Mushington" did knowingly and intentionally distribute approximately three ounces of heroin hydrochloride, a Schedule 1 narcotic drug controlled substance.

And this is under Title 21, United States Code, Section 841 (a) (1); Title 18, United States Code, Section 2.

Some of the defendants named in the indictment have not been on trial here; some of them are out of this trial for various reasons. The reasons why the other defendants are not part of this trial have no bearing whatsoever on the guilt or innocence of either of the defendants who are on trial. You are not to speculate as to the reasons for the absence from this trial of the other defendants named in the indictment. You are to consider only the guilt or innocence of the defendants before you here.

Count One of the indictment charges a knowing and intentional conspiracy to violate Section 841(a) (1)

Charge of The Court

of Title 21, United States Code. That Section provides"

It shall be unlawful for any person knowingly or intentionally to manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance.

The essential elements of the charge involved in Count One may be stated as follows:

First, there must have been a conspiracy -- and I will discuss conspiracy with you shortly.

Second, the purpose of the conspiracy must have been knowingly and intentionally to manufacture, distribute, or possess with intent to distribute, a controlled substance, in this case heroin.

Third, the Defendants must have knowingly, intentionally, and wilfully become members of the conspiracy.

An act is done "knowingly" if done voluntarily and intentionally, not because of mistake or accident or other innocent reason.

An act is done "wilfully" if done voluntarily and intentionally, and with the specific intent to do something the law forbids; that is to say, with bad purpose either to disobey or to disregard the law.

These Defendants are charged with "conspiring"

1 to manufacture, distribute, or possess with intent
2 to manufacture or distribute, heroin. In order to
3 convict, you must be convinced beyond a reasonable
4 doubt that they knowingly, intentionally and
5 wilfully entered into a conspiracy. It is not
6 sufficient that you find that they actually did
7 manufacture, distribute or possess with intent to
8 distribute, the drug. On the other hand, it is
9 not necessary that you find these particular
10 defendants did in fact manufacture, distribute, or
11 possess with intent to distribute, heroin. What
12 you must find, in order to convict, is that the
13 Defendants knowingly, intentionally and wilfully
14 entered into an agreement to violate the law, whether
15 or not that agreement was ever carried out by them.
16 It is the conspiracy itself which constitutes the
17 crime and I will now discuss "conspiracy" with you.

18 A conspiracy is a combination of two or more
19 persons, by concerted action, to accomplish some
20 unlawful purpose, or to accomplish some lawful
21 purpose by unlawful means. So, a conspiracy is a
22 kind of "partnership in criminal purposes", in which
23 each member becomes the agent of every other member.
24 The gist of the offense is a combination or agreement
25

Charge of the Court

to disobey, or to disregard, the law.

Mere similarity of conduct among various persons, and the fact they may have been associated with each other, and may have assembled together and discussed common names and interests, does not necessarily establish proof of the existence of a conspiracy.

However, the evidence in the case need not show that the members entered into any expressed or formal agreement, or that they directly, by words spoken or in writing, stated between themselves what their object or purpose was to be, or the details thereof, or the means by which the object or purpose was to be accomplished. But the evidence in the case must show beyond a reasonable doubt, in order to establish proof that a conspiracy existed, is that the members in some way or manner, or through some contrivance, expressly or tacitly came to a mutual understanding to try to accomplish a common and unlawful plan. The evidence in the case must also establish beyond a reasonable doubt that the alleged conspiracy was knowingly formed, and that one or more of the means or methods described in the indictment were agreed upon to be used, in an effort to effect or

Charge of the Court

accomplish some object or purpose of the conspiracy, as charged in the indictment; and that two or more persons, including the accused, were knowingly members of the conspiracy, as charged in the indictment.

The indictment charges that as part of the alleged conspiracy the Defendants would "distribute" and "possess with intent to distribute," heroin. In order to find any of the Defendants guilty, you must be convinced beyond a reasonable doubt as to that particular Defendant that he was a member of a conspiracy and that at least one or two purposes that I have just mentioned was a part of that conspiracy.

The term "distribute" in this context means to deliver a controlled substance to the possession of another person, which in turns means the actual, constructed, or attempted transfer of a controlled substance.

The phrase "possess with intent to distribute" involves two distinct terms -- "possession" and "intent." Before you may find that a part of the alleged conspiracy was to possess heroin with intent to distribute it, you must be convinced beyond a reasonable doubt that the intended possession was with the specific purpose to distribute it, as I have

Charge of the Court

1 already defined "distribute" for you. A specific
2 purpose to possess with the intent to distribute
3 means more than the general intent to possess the
4 drug. Such purpose may be determined from all the
5 facts and circumstances surrounding the case, but
6 unless the specific purpose has been proven beyond
7 a reasonable doubt the Government has not carried
8 its burden with respect to the charge of conspiracy
9 to possess with intent to distribute heroin.
10

11 The law recognizes two kinds of possession:
12 Actual possession and constructive possession.
13 A person who knowingly has direct physical control
14 over a thing, at a given time, is then in natural
15 possession of it. A person who, although not in
16 actual possession, knowingly has both the power and
17 the intention, at a given time, to exercise dominion
18 or control over a thing, either directly or through
19 another person or persons, is then in constructive
20 possession of it.

21 The law also recognizes that possession
22 may be sole or joint. If one person alone has
23 actual or constructive possession of a thing,
24 possession is sole. If two or more persons share
25 actual or constructive possession of a thing, possession

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2 is joint.

3 In determining whether there has been an
4 unlawful agreement, you may judge acts and conduct
5 of the alleged members of the conspiracy which are
6 done to carry out an apparent criminal purpose. The
7 addage, "Actions speak louder than words" is
8 applicable here. Usually, the only evidence available
9 is that of disconnected acts on the part of the
10 alleged individual conspirators, which acts, however,
11 when taken together in connection with each other and
12 with the reasonable inferences flowing therefrom,
13 show a conspiracy or agreement to secure a particular
14 result as satisfactorily and conclusively as more
15 direct proof.

16 If, upon such consideration of all the evicence,
17 direct or circumstantial, you find beyond a reasonable
18 doubt that the minds of the alleged conspirators met
19 in an understanding way and that they agreed, as I
20 have explained a conspiratorial agreement to you, to
21 work together in furtherance of the unlaw schemes
22 alleged in the indictment, then proof of the existence
23 of conspiracy is established.

24 In determining whether a conspiracy existed,
25 you should consider the actions and declarations of all

Charge of the Court

of the alleged participants made in furtherance of the common scheme. However, in determining whether a particular defendant was a member of the conspiracy, you should consider only his acts and statements. He cannot be bound by the acts or declarations of other participants until it is established that a conspiracy existed, and that he was one of its members.

(Continued on next page.)

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Charge

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Whenever it appears beyond a reasonable doubt, however, that a conspiracy existed and that a defendant was one of its members, then the statements thereafter knowingly made and the facts thereafter knowingly done by some other member of the conspiracy, may be considered by you as evidence against the defendant found to have been a member, even though the statements and acts may have occurred in the absence and without the knowledge of that defendant, provided such statements and acts were knowingly made or done during the continuation of the conspiracy, and in furtherance of some object or purpose of a conspiracy.

Any statement or acts of any conspirator, which are not made or done in furtherance of the conspiracy, or which are made or done before its existence or after its termination may not be considered as evidence against anyone other than the maker or actor.

The guilt of a conspirator is not governed by the extent or duration of his participation in the conspiracy, or whether he had knowledge of all of its operations. Even if one joined the conspiracy after it was formed, and was engaged in it to a degree more limited than that of other co-conspirators, he is equally culpable, so long as he was a co-conspirator.

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2 Each member of a conspiracy may perform separate and
3 distinct acts at different times and different places.
4 Thus, some conspirators may play major roles, while
5 others play minor parts.

6 In other words, it is not required that a person
7 be a member of the conspiracy from its very start -- he
8 may join it at any point during its progress, and
9 be held responsible for all that has been done before
10 he joined, and all that may be done thereafter during
11 its existence, and he may be charged with the same
12 responsibility as if he had been one of the originators
13 or instigators of the conspiracy. On the other hand,
14 a person who has no knowledge of the conspiracy, but
15 happens to act in a way that furthers some object
16 or purpose of the conspiracy does not thereby become
17 a conspirator.

18 Although I have just explained conspiracy to you
19 in great detail, I will summarize, for the sake of
20 clarity, the elements which must be proved beyond a
21 reasonable doubt in order to find a defendant guilty of
22 conspiracy.

23 First. That the conspiracy described in the
24 indictment was wilfully formed, and was existing at
25 or about the time alleged;

1
2 Second. That the accused willfully became a
3 member of the conspiracy;

4 Third. That one of the conspirators thereafter
5 committed an overt act in furtherance of the conspiracy
6 and

7 Fourth. That such overt act was knowingly done
8 in furtherance of some object or purpose of the con-
9 spiracy, as charged.

10 If you should find beyond a reasonable doubt
11 from the evidence in the case that existence of the
12 conspiracy charged in the indictment has been proved,
13 and that during the existence of the conspiracy some
14 overt act was knowingly done by one of the members of
15 the conspiracy in furtherance of some object or purpose
16 of a conspiracy, then proof of the conspiracy offense
17 charged is complete.

18 An "Overt Act" is any act knowingly committed
19 by one of the defendants or co-conspirators in an
20 effort to effect or accomplish some object or purpose
21 of the conspiracy. The overt act need not be criminal
22 in nature, if considered separately and apart from
23 the conspiracy. It may be as innocent as the act of
24 a man walking across the street, or driving an auto-
25 mobile, or using a telephone. It must, however,

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2 be an act which follows and tends towards accomplishment
3 of the planner scheme, and must be knowingly done in
4 furtherance of some object or purpose of the
5 conspiracy charged in the indictment.

6 Keep in mind that it is the agreement to violate
7 the law which constitutes the offense charged in Count
8 one. Thus, you may find a defendant guilty of conspiracy
9 even if you do not find him guilty of the substantive
10 count. Likewise, you may find the defendants guilty
11 of the substantive count, which is Count two, even if
12 you do not find them guilty of the conspiracy count.

13 In your consideration of the evidence in the
14 case as to the offense of conspiracy charged, you should
15 first determine whether or not the conspiracy existed,
16 as alleged in the indictment. If you conclude that
17 the conspiracy did exist, you should next determine
18 whether or not the accused wilfully became members of
19 the conspiracy.

20 If you are not convinced beyond a reasonable
21 doubt from the evidence in the case that the conspiracy
22 alleged in the indictment was wilfully formed, and
23 that one or both of the defendants wilfully became
24 members of the conspiracy either at its inception or
25 afterwards, and that thereafter one or more of the

Charge

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2 conspirators knowingly committed some overt act in
3 furtherance of some object or purpose of the conspiracy,
4 then you must acquit each defendant as to whom you have
5 such a reasonable doubt.

6 If, however, you are convinced of these factors
7 beyond a reasonable doubt, then you may convict each
8 defendant as to whom you have no reasonable doubt.

9 Let me admonish you here that it is your duty
10 to give separate, personal consideration to the case
11 of each individual defendant. When you do so, you
12 should analyze all of the evidence with respect to each
13 defendant separately. You may find both of the
14 defendants guilty, both of the defendants not guilty,
15 or one of the defendants guilty and the other not guilty.
16 The fact that you may find one of the defendants guilty
17 should not influence your verdict as to the other
18 defendant. You must determine the case of each defendant
19 solely upon that evidence which you find applicable
20 to him or her, as the case may be.

21 Let me state to you here that the burden is
22 upon the prosecution to prove beyond a reasonable doubt
23 each and every essential element of the crime charged.
24 Failure to do so requires you to find the defendants
25 not guilty. The burden never shifts to the defendants
to prove their innocence. The law never imposes upon

Charge

1
2 a defendant in a criminal case the burden or duty of
3 calling any witnesses or producing any evidence.

4 Count two of the indictment is the substantive
5 count, and it charges that the defendants did in fact
6 knowingly and intentionally distribute heroin. In
7 order to convict either or both of the defendants
8 on Count two, you must be convinced beyond a reasonable
9 doubt that he or she actually distributed heroin,
10 and that such distribution was knowing and intentional,
11 as I have already defined those terms for you.

12 Count two also charges the defendants with
13 aiding and abetting the crime charged in that count.

14 At this point I wish to advise, Mr. Foreman,
15 ladies and gentlemen of the jury, that you will have
16 a copy of the indictment, and if you read the indict-
17 ment closely you will see the various essential elements
18 that I have given you that must be proven and are
19 spelled out in the indictment.

20 Title 18 United States Code Section 2 provides:

21 Whoever commits an offense against the United
22 States or aids, abets, counsels, commands, induces
23 or procures its commission, is punishable as a principal.

24 Whoever wilfully causes an act to be done with
25 which if directly performed by him or another would be

an offense against the United States, as punishable as a principal.

In order to aid and abet another to commit a crime is necessary that the accused wilfully associated himself in some way with the criminal venture, and wilfully participate in it as he would in something he wishes to bring about; that is to say, that he wilfully seeks by some act of his to make the criminal venture succeed.

Mere knowledge that a crime is being committed is not sufficient to establish that the defendant aided and abetted a crime, unless you find beyond a reasonable doubt that the defendant was a participant and not merely a knowing spectator.

You, of course, may not find any defendant guilty of any count unless you find beyond a reasonable doubt that every element of the offense charged in that count, as defined in these instructions, was committed by some person or persons, and that the defendant participated in its commission.

Therefore, if you find that the violation of law charged in Count two occurred and you are convinced beyond a reasonable doubt that one of the defendants aided and abetted the commission of the violation alleged

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2 in that particular count you may find the defendant
3 guilty of that count as though he were a principal.

4 Let me instruct you again that you must evaluate
5 the case against each defendant separately. You may
6 therefore find both defendants guilty, both defendants
7 not guilty, one defendant guilty and the other not
8 guilty. Likewise, you must consider each count in
9 the indictment separately, and your verdict with respect
10 to one count should not influence your verdict on
11 the other count. Thus, you may find either or both of
12 the defendants guilty of the conspiracy count without
13 finding them guilty of the substantive count. Likewise,
14 you may find either or both of the defendants guilty
15 of the substantive count without finding them guilty
16 of the conspiracy count. Your verdict on one count
17 does not necessarily require you to reach the same
18 verdict on the other count.

19 There are two types of evidence from which
20 you may find the truth as to the facts of a case--
21 direct and circumstantial evidence.

22 Direct evidence is the testimony of one who
23 asserts actual knowledge of a fact, such as an eye
24 witness; circumstantial evidence is proof of a
25 chain of facts and circumstances indicating the guilt

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Charge

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or innocence of a defendant. The law makes no distinction between the weight to be given to either direct or circumstantial evidence. Nor is a greater degree of certainty required of circumstantial evidence than of direct evidence. You should weigh all the evidence in the case. After weighing all the evidence, if you are not convinced of the guilt of the defendants beyond a reasonable doubt, you must find them not guilty.

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You will recall that at the time certain testimony was being given, I instructed you that that testimony was admitted only for the purpose of showing the witness' state of mind. You are not to consider such evidence for the truth or falsity of the assertions contained therein. Likewise, you heard certain testimony which I told you could be considered only on the conspiracy count, and you are not to consider that testimony with respect to the substantive count, Count two.

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The Government has the burden of proving guilt beyond a reasonable doubt with respect to each element of the crimes a defendant is charged with committing and this never shifts throughout the trial. A defendant does not have to prove his innocence. He need not submit any evidence at all.

Charge

1 A defendant is presumed innocent of the crime.
2
3 Thus, the defendant, although accused, begins the trial
4 with a clean slate and with no evidence against him,
5 and the law permits nothing but legal evidence to be
6 presented before a jury to be considered in support of
7 any charge against the accused. So the presumption of
8 innocence alone is sufficient to acquit a defendant
9 unless you, the jury, are satisfied beyond a reasonable
10 doubt of the defendant's guilt after careful and
11 impartial consideration of all the evidence in the
12 case.

13 It is not required that the Government prove
14 guilt beyond all possible doubt. The test is one of
15 reasonable doubt, and reasonable doubt is doubt based
16 upon reason and common sense, the kind of doubt
17 that would make a reasonable person hesitate to act.
18 Proof beyond a reasonable doubt must, therefore, be
19 proof of such a convincing character that you would be
20 willing to rely and act upon it unhesitatingly in the
21 most important of your own affairs.

22 You, the jury, will remember that a defendant
23 is never to be convicted on mere suspicion or conjecture.
24 The burden is always upon the prosecution to prove
25 guilt beyond a reasonable doubt. This burden never

Charge

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2 shifts to a defendant. The law never imposes upon a
3 defendant in a criminal case the burden or duty of
4 calling any witnesses or producing any evidence. If
5 the jury views the evidence in the case as reasonably
6 permitting either of two conclusions, one of them
7 is innocence, the other of guilt, you, the jury,
8 must, of course, adopt the conclusion of innocence.

9 A reasonable doubt may arise and not only from
10 the evidence produced, but also from a lack of evidence.
11 Since the burden is upon the prosecution to prove the
12 accused guilty beyond a reasonable doubt of every
13 essential element of the crime charged, a defendant has
14 the right to rely upon failure of the prosecution to
15 establish such proof.

16 You, the jury, may make common sense inferences
17 from the proven facts. An inference is a deduction
18 or conclusion which reason and common sense lead the
19 jury to draw from the facts which have been proved. You
20 are to consider only the evidence in the case. But in
21 your consideration of the evidence you are not limited
22 to the bald statements of the witnesses. On the contrary
23 you are permitted to draw, from the facts which you
24 find have been proved, such reasonable inferences as
25 seen justified in the light of your own experience.

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2 You, the jurors, are the sole judges of the
3 credibility of the witnesses and the weight the testi-
4 mony deserves, and it goes without saying that you
5 should scrutinize all the testimony given, the circum-
6 stances under which each witness has testified, and
7 every matter in evidence which attempts to show whether
8 a witness is worthy of belief. Consider each witness'
9 intelligence, motive and state of mind, in his demeanor
10 and manner while on the stand. Consider the witness'
11 ability to observe the matters as to which he has
12 testified, whether he impresses you as having an
13 accurate recollection of these matters. Consider also
14 any relation each witness may bear to either side of
15 the case; the manner in which each witness might be
16 affected by the verdict; and the extent to which, if
17 at all, each witness is either supported or contradicted
18 by other evidence in the case.

19 Inconsistencies or discrepancies in the testi-
20 mony of a witness, or between the testimony of different
21 witnesses, may or may not cause the jury to discredit
22 such testimony. Two or more persons witnessing an in-
23 cident or a transaction may see or hear it differently;
24 an innocent misrecollection, like failure of recollect-
25 ion, is not an uncommon experience.

Charge

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2 In weighing the effect of a discrepancy, always
3 consider whether it pertains to a matter of importance
4 or an unimportant detail, and whether the discrepancy
5 results from innocent error or intentional falsehood.

6 After making your own judgment, you will give
7 the testimony of each witness such credibility, if
8 any, as you may think it deserves.

9 If you find any witness lied as to any material
10 fact in the case -- or wilfully testified falsely --
11 then the law gives you certain privileges. One of
12 those privileges is that you have the right to disregard
13 the entire testimony of that witness. If you find,
14 however, that you can sit through that testimony and
15 determine which of the testimony is true and which
16 was false, then the law allows you to take the portions
17 which were true and weigh it and disregard those portions
18 which were false. That again is within your prerogative

19 The weight of the evidence is not necessarily
20 determined by the number of witnesses testifying on
21 either side. You should consider all the facts and
22 circumstances in evidence to determine which of the
23 witnesses are worthy of greater credence.

24 You may find the testimony of a smaller number
25 of witnesses on one side is more credible than the testi-

mony of a greater number of witnesses on the other side.

You are not obliged to accept testimony, even though the testimony is uncontradicted and the witness is not impeached. You may decide, because of the witness' bearing and demeanor, because of the inherent probability of his testimony, or for other reasons sufficient to you, that such testimony is not worthy of belief.

The Government is not required to prove that the essential elements of the offense as defined in these instructions by any particular number of witnesses. The testimony of a single witness may be sufficient to convince you beyond a reasonable doubt of the existence of an essential element of the offense charged, if you believe that beyond a reasonable doubt that the witness is telling the truth.

The testimony of a witness may be discredited or impeached by showing that the witness has been convicted of a felony, that is, of a crime punishable by imprisonment for more than one year. Prior conviction does not render a witness incompetent to testify, but is merely a circumstance which you may consider in determining the credibility of the witness. It is

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2 your province to determine the weight to be given to
3 any prior conviction as impeachment.

4 (continued next page)

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2 and, if having done so, you believe it to be the
3 truth, then you are to give it the same credence
4 as the testimony by the witnesses. The testimony
5 of such a person alone believed by you, may be
6 of sufficient weight to sustain a verdict of guilty
7 even if uncorroborated or unsupported by other
8 evidence. Keep in mind however, that you must
9 receive such testimony with caution and weigh it
10 with great care before you accept it. You should
11 not convict on the basis of the unsupported testimony
12 of a participant in the crime unless you believe
13 such testimony beyond a reasonable doubt.

14 Certain witnesses who testified before you
15 here have received consideration from the Government
16 in exchange for their testimony. Such testimony
17 must be examined and weighed by you with greater
18 care than the testimony of an ordinary witness.
19 Again, this does not mean that such a person cannot
20 tell the truth, but you must determine whether such
21 testimony has been affected by interest, or by
22 prejudice against the defendant. If, after such
23 consideration, you find such testimony to be truthful,
24 you may give it whatever weight you believe it
25 deserves.

Charge

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2 In a criminal case the defendant need not
3 take the witness stand and testify, no presumption
4 of guilt may be raised, no inference of any kind
5 may be drawn from the failure of the defendant to
6 testify, nor may you comment in your deliberations
7 on the failure to do so.

8 The law never imposes upon a defendant in a
9 criminal case the burden or duty of calling any
10 witnesses or producing any evidence.

11 When, however, a defendant in a case of this
12 kind takes the stand, which she has a perfect right
13 to do so, she is subjected to all the obligations
14 of witnesses, and her testimony is to be treated
15 like the testimony of any other witness; and that is
16 to say, it will be for you to say, remembering the
17 substance of her testimony, the manner in which she
18 gave it, her cross-examination, and everything else
19 in the case, whether or not she told the truth.
20 Then, again, it is for you to remember, and you have
21 a perfect right to do so, the very grave interest
22 the defendant has in the case. As she places herself
23 as a witness, she stands like any other witness.

24 There is nothing peculiarly different in the
25 way a jury should consider the evidence in a criminal

2 case, from that in which all reasonable persons
3 treat any question depending upon evidence presented
4 to them. You are expected to use your good common
5 sense; you are not to compromise your position;
6 consider the evidence in the case for only those
7 purposes for which it has been admitted, and give
8 it a reasonable and fair construction, in the
9 light of your common knowledge of the natural
10 tendencies and inclinations of the human beings.

11 If an accused be proved guilty beyond a
12 reasonable doubt, say so. If not so proved guilty,
13 say so.

14 Keep constantly in mind that it would be a
15 violation of your sworn duty to base a verdict of
16 guilty upon anything other than the evidence in the
17 case; and remember as well that the law never imposed
18 upon a defendant in a criminal case the burden or
19 duty of calling any witnesses or producing any
20 evidence.

21 In making the factual determination on which
22 your verdict will be based, you may consider only
23 the exhibits which have been admitted in evidence
24 and the testimony of the witnesses as you have heard
25 it in this courtroom.

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2 The punishment provided by law for the
3 offenses charged in the indictment is a matter
4 exclusively within the province of the Court, and
5 should never be considered by the jury in any way
6 in arriving at an impartial verdict as to the guilt
7 or innocence of the accused.

8 If any reference by the Court or by counsel
9 to matters of evidence does not coincide with your
10 own recollection, it is your recollection which
11 should control during your deliberations.

12 Now, in this type of case there must be a
13 unanimous verdict. That means all 12 of you must
14 agree, and it goes without saying, that it becomes
15 incumbent upon you to listen to one another and to
16 argue out the points among yourselves in order to
17 determine in good conscience whether your fellow
18 juror's argument is one commensurate with yours or
19 whether you can with good conscience agree with him.
20 You have no right to stubbornly and idly sit by and
21 say, "I am not talking to anyone." "I am not going
22 to discuss it." Because people with common sense and
23 the ability to reason must communicate their thoughts.
24 So, anything which appears in the record and about
25 which one of you may not agree, talk it out amongst

6 1
2 yourselves, and then if you can't agree as to what
3 is in the record, well, you can ask the Court to
4 have that portion of the testimony read back to you.
5 You may do so by knocking on the door and giving
6 a note in writing to the marshal who will then present
7 it to the Court and I will then bring you into the
8 courtroom.

9 Now, the form of verdict will be as follows:

10 If you take Count one and Count two, and if
11 you should find the defendants not guilty on both
12 counts, you will announce, Mr. Foreman, the
13 formal verdict: We, the jury, find the defendants not
14 guilty on Count one and Count two.

15 If you should find a defendant guilty on one
16 Count and not guilty on the other Count, then you
17 will announce which of the defendants you find
18 guilty on which count and which other defendants
19 you find not guilty on which counts.

20 In other words, it's Count one, not guilty,
21 one of the defendants, you may announce that. and
22 one of the defendants you do find guilty, you may
23 announce that. Both counts will be announced
24 separately.

25 If you should find the defendants guilty on

2 both counts, then you may announce your form of ver-
3 dict, saying, we, the jury, find both defendants
4 guilty on both counts.

5 That's the form of the verdict.

6 You are going to be now brought into the
7 jury room where you will start your deliberations.
8 The Court will have submitted to you the various
9 exhibits that have been marked into evidence with
10 the exception of the substance that has been marked
11 into evidence. In addition to that, if you have
12 any questions whatsoever in relation to the record,
13 you may again, as I said, notify the marshal and
14 he will bring it into the courtroom. If you have
15 any other questions that may somehow or other come
16 to your mind in reference to any matter in the case,
17 you may again notify the marshal as to those questions.

18 All right, side bar.

19 (The following took place at the side bar.)

20 THE COURT: Any exceptions?

21 MR. QUAGLIATA: None.

22 MR. APPLEBY: None.

23 THE COURT: Any requests?

24 MR. APPLEBY: None.

25 THE COURT: Ok.

A 287

JUDGMENT RE: ANDREW DINKO

A 288

DEFENDANT

ANDREW DINKO

DOCKET NO. 76 CR 381

JUDGMENT AND PROBATION/COMMITMENT ORDER

In the presence of the attorney for the government
the defendant appeared in person on this date

MONTH	DAY	YEAR
9	16	77

COUNSEL

☐ WITHOUT COUNSEL

However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

☒ WITH COUNSEL

SALVATORE QUAGLITATA

(Name of counsel)

FILED

IN CLERK'S OFFICE

PLEA

☐ GUILTY, and the court being satisfied that
there is a factual basis for the plea,☐ NOLO CONTENDERES. DISTRICT COURT, N.Y.

★ SEP 16 1977 ★

FINDING &
JUDGMENT

There being a finding/verdict of

☐ NOT GUILTY. Defendant is discharged☒ GUILTY to counts 1 & 2TIME A.M. _____
P.M. _____

Defendant has been convicted as charged of the offense(s) of violating T.21: USC 85841(a)(1) & 846 in that on or about and between September 1971 and February 1974 both dates being approximate and inclusive, the defendant with others did knowingly and intentionally combine, conspire, confederate and agree to distribute quantities of heroin, and would conceal the existence of the conspiracy and on September 21, 1973 the defendant with others did knowingly and intentionally distribute approximately 3 ounces of heroin.

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of 5 years on counts 1 and 2 concurrently and special parole term of 5 years. Sentence stayed pending appeal. Bail continued.

SENTENCE
OR
PROBATION
ORDERSPECIAL
CONDITIONS
OF
PROBATIONSPECIAL
CONDITIONS
OF
PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

SIGNED BY

U.S. DISTRICT COURT

U.S. DISTRICT COURT

September 16, 1977

A 289

JUDGMENT RE: PATRICIA INKO

UNITED STATES

DEFENDANT

PATRICIA DINKO

DOCKET NO. 76 CR 381

JUDGMENT AND PROBATION/COMMITMENT ORDER

In the presence of the attorney for the government
the defendant appeared in person on this date —

MONTH	DAY	YEAR
9	16	77

COUNSEL

☐ WITHOUT COUNSEL

However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

[X] WITH COUNSEL

SALVATORE QUAGLIATA

(Name of counsel)

PLEA

1 GUILTY, and the court being satisfied that
there is a factual basis for the plea,

☐ NOLO CONTENDERE, U. S. DISTRICT COURT E.D.N.Y.

★ SEP 16 1977

There being a finding/verdict of

☐ NOT GUILTY. Defendant is discharged

X GUILTY. to counts 1 & 2

TIME A.M.
P.M.

FINDING & JUDGMENT

Defendant has been convicted as charged of the offense(s) of violating T.21: USC §841(a)(1) & 846 in that on or about and between September 1971 and February 1974 both dates being approximate and inclusive, the defendant with others did knowingly and intentionally combine, conspire, confederate and agree to distribute quantities of heroin, and would conceal the existence of the conspiracy and on September 21, 1973 the defendant with others did knowingly and intentionally distribute approximately 3 ounces of heroin.

SENTENCE
OR
PROBATION
ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of 5 years.

Execution of sentence suspended. Defendant placed on probation for 5 years and a Special Parole Term of 5 years, and to pay a fine of \$3,000.00. Sentence to run concurrent on counts 1 and 2.

SPECIAL
EDITIONS
OF
LITERATURE

Notwithstanding the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the back of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for violation occurring during the probation period.

be held in Government or in the custody of the Attorney General and recommends,

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

Nov 16, 1977

Service of 1 COPY ~~copies~~ of the
within Appondis is hereby
admitted this 30th day of
Nov. 1977

Signed _____

Attorney for Appellee

File
NOV 30 2 35 PM '77
UNITED STATES ATTORNEY
S. D. OF NEW YORK